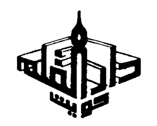
WOMAN
BETWEEN ISLAM AND WORLD LEGISLATIONS

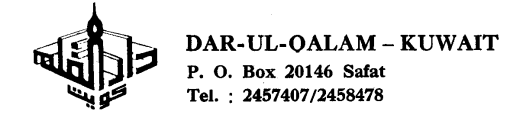
A COMPARATIVE STUDY
BY

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TABLE OF CONTENTS

THE POSITION OF WOMAN BETWEEN ISLAMIC & WORLDLY LEGISLATIONS

Preface

As they celebrate the start of the 15th Hijra Century, Muslims, yet, are looking forward to eventually getting rid of all setbacks and shortcomings which surfaced during the previous centuries. A major hope is to give up our blind imitation of the lifestyle of the socially and intellectually corrupt West.

To achieve such aspirations, an attempt should be made to assess our factual stands and diagnose our social diseases. This could be helpful to discover the motives of our ailments and avoid constantly moving in the wrong direction.

All Islamic countries fell under foreign colonialism throughout the 19th Century A.D. Great powers in East and West rallied together to occupy, subjugate and dismember the vast Islam homelands. One cannot dismiss the fact that this was partly a corollary of the Muslims' deviation from the "Straight Path". Allah had warned:

"When we decide to destroy a population, We (first) send a definite order to these among them who are given the best things of this life, but yet transgress, so that the word is proved true against them, then (it is) We destroy them utterly" (XVII: 16).

Away from pompous speeches and splendid parades, our celebrations should embrace the full articulation of Islam values in every aspect of the Muslim individual, family and societal life. The Prophet's saying: "I was sent to thee to complete the highest morals" evidences the universality of Islamic principles of right and wrong.

The last Century particularly witnessed a vehement attack by Eastern and Western thinkers on each and every Islamic tenet and ethic especially those relating to "woman and family in Islam". These they described as backward and reactionary. Furthermore, the Muslim woman was exhorted to join the world movement of emancipation.

The deceitful call, therefore, saw the Arabs and the Muslims at large racing toward a re-interpretation of Quranic verses and the Prophet's Hadiths on "woman and family" that are compatible with the so-called "contemporary world conception":

1. Some Arabs attacked the Islamic "extravagently observed purity and chastity" which restricts the matrimonial union to a sole husband and a sole wife. The restrained freedom of illicity sex is viewed by these modernists as "ideas of the exinct past, unsuitable for the Scientific Socialist Era". (1)

2. Some clergymen and religious scholars argue that, over time, the nations of good and evil could be variably perceived. The absolute truth, virtue or good exists only in the disillusioned minds of the dreamy and insane. "The utmost, ideal virtue is having good food and living, rather than praying, fasting and paying alms. The pursuit of our present concept of virtue provides for resisting all forms of evolution, and even plotting against our women. So, the very meaning of purity and impurity should be retraced". (2)

3. In "The modern interpretation of the Holy Quran", the author claims that watching nude women-bathers strolling on seashores is nothing but paying tribute to the "Glory of the Lord Creator" and a deep reverence of the transcendant beauty of His Creation. Exhibition of women's charms is no contradiction to Islam since inner purity can in no way be associated with a particular dress". (3)

It is outright misfortune for the Islamic Umma that the propagators of such wicked ideas are brought to the highest ranks of social and intellectual life. Many are accorded the deanery of Arts, Literature, Politics and Social Sciences. Fans and imitators were, however, unaware that these ideas were largely echoed in hundreds of pamphlets and books written and promoted by anti-Islamic parties. These at least overtly identified their ultimate objective: "the eradication of family and social life of the Muslims". Examples are many:

1. H.A. Gibb, in his famous work "Whither Islam?" stressed that all efforts to extensively supplant western civilization in the Islamic world are aimed at smashing the integrity of Islamic civilization. Each Muslim country would finally adopt a specific element of the west civilization suitably tailored to meet its policies and purposes. In turn, the Islamic civilization would lose its traditional integrity. Agnosticism would, in a short time, prevail in all aspects of life throughout the muslim world.

2. Moreau Berger, in "The Arab world today" underscored two focal points: the far-reaching authority of a father in his capacity as head of a religionist family, and the variance of such authority in urban and rural areas especially in the primarily tribal Arabian communities. Arab families should be eventually forced towards the complete western way of life. The western social theories and practices should be widely publicized and enforced with the aim to destroy in a single stroke the traditional

social life of the Ar b family.

3. Berger, in the same reference, predicted the effects of calling Muslim women to emancipate: the growth of their position and participation in socio-economic life shall bring about significant alterations, not only within family life, but also throughout the whole Islamic society. If they are allowed to freely display their latent potential, ambitious women will concretize radical changes which will shake the underpinnings of the Islamic society in its entirety and for ever.

4. A logical consequence of the so-called "change" will be a remarkable deviation from Islamic values and ethics. A.H. Gibb reported that because the Muslim individual had had no other feasts to celebrate than those prescribed by Islam, he used to look at the outer world solely from a narrow religious angle. But, in the aftermath of the Muslim Countries colonization, religious dogmas gradually became outfashioned and Muslim folk had the opinion that Islamic laws bring no decisive solutions to their day-to-day problems. Such developments have been mainly the task of modernist leaders and youths.

5. Montgomery Watt, in "Mohamad in Medina" alleged that the command of Allah:
"O ye who believe; Enter not houses other than your own until ye have asked permission" (XXIV-27), or His command: "Say to the believing men that they should lower their gaze and guard their modesty" (XXIV-30), underscore the degradation of ethical conduct and standards among Arabian people. He also claimed that imam Bukhari reported in his "True Hadiths" that the Prophet enjoined the "Shaghar": that is an exchange deal whereby two men agree to marry each other's daughter without paying or collecting their dowry. A simple reading of page 67 of the source referred to will reveal that Watt's claim is false and baseless. The said Hadith is clearly captioned: "A Hadith reported by Ibn Omar regarding the prohibition of the "Shaghar".

In a nutshell, this review showed that the core of the "woman cause" is neither the emancipation of woman, nor the equality of the two sexes. This is primarily because nobody ignores that Islamic jurisprudence was the first to vindicate the rights of women stressing that men and women are equal in all fundamentally similar matters. Otherwise, functions and obligations are allotted according to the only difference Islam made in the realm of physical conditions and body constitution. Nobody ignores, too, that the position gained by western women in Christian communities has created unsolvable moral, psychological and social problems.

The question indeed took its present shape when the colonialist powers were forced to pull out from Islamic lands. They managed to leave behind them a class of Westernized Muslims who would do everything possible to defend the alien ideas. A new type of fierce infight surfaced and encompassed two unequally positioned factions of the Islamic society: the Secularists - who were well-instituted as political and intellectual leaders, and the traditionalists - who mostly possessed no effective means of understanding and, therefore, preaching Islam as it should be done

With this book, we wish to present the nascent 15th Hijra Century with a comparative study between the Islamic concept of "the status of women", and woman's position before and after the advent of Islam int the non-Muslim societies and other civilizations.

The Islamists everywhere are urged to understand that the sources of the unique, comprehensive and universal religion of Islam should never be interpreted according to the inherited tribal traditions of the Arabs nor through extraneous ways imported from alien societies. Both ways will produce misinterpretation. Furthermore, they are obvious deviation from the Straight Path of Allah, and a departure from the innermost nature of mankind as turned out by the creative hand of Allah.

It is hoped, finally, that the lure of secularism and charm of the West will not preclude considering this comparative study and the like with due interest. For they are, in fact, a pursuance of the road which leads to high ethics and salvation, that is, the real mission of Mohamad, the seal of the Prophets, peace be upon him.

May Almighty Allah grant us support and success.

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(1) Mohammad Tawfik Dyab, in the weekly "Al Seyassa", Cairo, 19.6.1926

(2) Khalid Mohd Khalid: "From here we should start", His subsequent, mature works included many radical modifications to such ideas.

(3) Dr. Mostafa Mahmoud, op. cit., an article published in "Sabah Al-Khair" weekly magazine, Cairo, 22.2.1971.

CHAPTER ONE

WOMAN IN ANCIENT AND MODERN SOCIETIES

1. Between Islam and Ancient Civilizations
2. The Status of Woman in Earliest Legislations
3. Social Iniquities in Europe
4. Islam and the "Universal Declaration of Human Rights"
5. Islam and the "Emancipation of Woman"
6. Islam and the "International Women's Year'
7. The Status of Woman between Theory and Practice

1. Between Islam and Ancient Civilizations

Whenever the position of woman throughout historical ages is mentioned, Islam emerges as a unique exception. The religion of Islam gave woman an honourable status and established her dignified equality with men.

Before the advent of Islam, women had had no rights of any kind, nor an independent identity in any form. In previous religions and systems, they were treated as mere chattels in the house, subject to be bought, sold or discarded at discretion. Examples are many:

1.1 Chinese civilization:

In China, the statutory rule was that woman should be regarded as a disqualified minor; "Nothing is inferior to a woman". The Chinese wisdom presumed that "Women were created and placed at the most inferior point of human race, and should be given the meanest work". As such, woman was conceded no rights whatsoever. (1)

1.2 Greek Civilization: (Hellenic Empire)

In ancient Greece, the concept of woman was the view that here name, same as her body, should be concealed behind the doors of her home. Demostenes summed up her real value in these words: "Men take up prostitutes for sex delights, concubines for body cure and wives to have legitimate offspring". (2)

1.3 Ancient Italian Mores:

In all Italian imperial cities woman was looked down upon as a chattel that was trafficked in, and was treated as a slave or housemaid. Considered as inferior to man, a wife had, in his presence, to sit on the ground, or follow, afoot, while he rode (2)

1.4 Hinduism:

In India, the ordinance of Manu implies several clauses handling the status of woman. Among them are the following:

a) Article No. 147 states that "By a girl, by a young woman or even by an aged one, nothing must be done independently, even in her own house".

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(1) "Chinese Civilization" by Wil Durant, translated into Arabic by Mohamad Badran. p. 273 & "Life in Ancient Greece" same author, pp 17, 114.

(2) "History of the World" by Wil Durant, Ministry of Education, Cairo, p. 394. A paper published in "Al Ahram" daily, issue of 6.7.1960.

b) Article No. 148 clarifies that "in childhood, a female must be subject to her father, and later, to her husband. When her Lord dies, she will be subject to his sons or his next of kin, for a woman must never be independent".

The reason for total subjugation of women is that Manu had created them with a sinful soul: "There is no creature more sinful than woman". They were to satisfy men's sexual desires and had been stripped of true honesty and good conduct.

Until late in the 18th century, the rite of Sati was practised, in which a Hindu widow should burn herself on the pyre of her deceased husband.

1.5 Roman Civilization:

In the Roman law, woman was looked upon as incapacitated as children and insane persons. This law stipulated three main motives for disqualification: age minority, insanity and womanhood. The Roman head of family had full right to sell anyone under his guardianship. A son had to be sold and recuperated by his father thrice before he was considered legally free. But for wives and female children, they had no independent status as long as their guardian was alive. His full authority over them included his right to sell, expell, torture and kill them.

1.6 Judaism:

Some Jewish factions regarded woman as housemaid or mere chattel in the house, having no rights whatsoever. In the Scriptures: "Ayub's wives were the most beautiful on the earth; at his death, he granted them inheritance with other males"(3). In Judaism, woman, wife or daughter had no rights of inheritance as long as there were male offspring to inherit the deceased husband or father.

Article 36 of the Israeli Civil Status Law until recently in application in Egypt, stated that "in the absence of a male offspring, the widow shall marry the brother of her dead man and shall be to nobody but himself unless he dissolves this wedlock". This provision was derived from the Book of Exodus, and is automatically applied now, as in the past, because it is regarded as a holy commandment of the Torah. Islam has categorically asserted that the original Torah was distorted or rewritten by the Jews.

1.7 Christianity:

The New Testament is completely devoid of any injuctions or statements aimed at organizing the social or family life of mankind. Early followers

(3) The Book of Numbers, Old Testament, Verse 42.

of Jesus Christ had to rely heavily on the commandments of the Torah as a part of their Bible.

1.8 Woman in Pre-Islamic Arabian Society:

In pre-Islamic Arabian societies, woman had no effective status, but was, anyhow better seen than in the non-Arabian ones.

a) Arab tribes used to bury alive the female child at her birth. Allah prohibited female infanticide in scathing terms as a habit of Jahiliya (Age of ignorance): "When news is brought to one of them of the birth of a female child, his face darkens and he is filled with inward grief. With shame does he hide himself from his people because of the bad news he has had; shall he retain it on sufferance and contempt or bury it in the sand? Ah! what an evil choice they decide on." (XVI - 58, 59).

The Prophet, thereafter, clarified and deepened these spiritual implications and concepts in a true Hadith: "He to whom a female child is born and he did not bury her alive, nor insult her, nor give preference over her to his male children, will be, by her blessings, in the Gardens of Eternity" (reported by Abu Daoud, and Ahmad Ibn Hanbal, Vol. 1, p. 223).

b) Prior to Islam, the Pagan Arabian societies stripped woman of any rights of inheritance. Allah prohibited this Jahiliya custom too: "From what is left by parents, and those nearest related, there is a share for men and a share for women, whether the property is small or large, a determinate share." (IV-7).

c) Among other habits of the pagan Arabs was that a dead man's widow was herself subject to be inherited along with his property. Ibn Abbas reported: "A man would take possession of his dead father's or brother's widow along with his chattels. He, at his discretion, could possess her at pleasure, or enslave her until she payed a ransom or died and ceded her property which he would inherit."

This kind of ill-conduct and harshness was forbidden by Allah: "O ye who believe! Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye may take away part of the dower ye have given them." (IV-19).

d) In Islam, the marriage of a Muslim woman with a pagan busband was held dissolved if he did not accept to embrace the universal religion of Islam. A good example of this situation was set by the Prophet, as reported by Imam Bukhari. He recounts that Bareira, a young slave who was enfranchised by the Mother of the Believers, Aisha, had been married to her master, Moghiss, as a consequence of her former state of

bondage. As a free Muslim woman she had the right to keep living with a man whom she hated (despite the deep affection he exhibited towards her) or ask for divorce on the grounds that she had had no free will or choice when the marriage was contracted. She opted for separation and when the Prophet tried to persuade her to return to her husband, she questioned him: "O Prophet of Allah! is it an injunction ordered by Almighty Allah?" He said: "No, I am only a mediator". With the true freedom that she was granted by Islam, Bareira replied: "I need not this man!". The Prophet graciously accepted her choice and she was divorced. He said to Al Abbas: "Is it not amazing, such affection of Moghiss to Bareira, and her hatred of him!".

1.9 The woman's function in life

Islam, an exception among other religions of the world, did not only lift all kinds of oppression and injustice imposed on woman, but also gave her a true mission in this life. This fact has been unintentionally overlooked by people in the present times. Let us take a good example from the Prophet's Seera (biography). For, when he received the first divine message in the Cave of Hira'a, Mohamad immediately thought of the woman who shared his inmost life, and put her in the right place assigned to the wife beside her man. He divulged to her his secret sense of the divine ecstasy. Khadija, a wise and understanding wife, comforted him with assuring words: "Fear ye not, but receive the glad tidings from Allah. Blessed be thou, ye are loyal to your kin, no word ever passed thy lips that was not true, ye are hospitable to strangers, kind to the destitute and needy, and ever ready in the service of Allah".

Also, when the Prophet was ordered by Allah to proceed to Mecca to perform the lesser Pilgrimage (UMRA), unarmed, he had to conclude a peaceful truce with the enemies of Islam in what was known as "the Treaty of Hudaibya". Many of his companions, including Omar Ibn Al Khattab, objected to some unreciprocal clauses of the treaty. When Mohamad called them, after the treaty was concluded, to end the Umra rites, he repeated his call thrice, but always with no response from their part. Consulting his wife "Umm Salama", she advised him: "Go straightway and utter no word to any of them until ye have completed the rite and slaughtered your sacrifice." When he did, all his companions followed obediently and the wise opinion of "Umm Salama" was highly praised.

Today's man has also ignored the fact that Islam granted woman equal rights and an independent identity from her husband who should not interfere in her own property. This was summed up by Ibn Hazm:

"Woman is entitled to possess houses, gardens and estates, engage in business, guarantee other parties; give away whole or part of her dower to whom she wants without objection from the part of her father or husband."

A Muslim woman, as contrasted to the western, remains independent from her husband as regards her name and surname. She is not obliged to bear anyone's name save her own. Her obedience is not to the man, her husband, as such but to the comprehensive matrimonial system established by Allah for a happy and decent life for all mankind. Obedience to the Prophet was maintained as equivalent to our obedience to Allah:
"He who obeys the Apostle, obeys Allah" (IV-80). It was also stressed that we should not obey a person or an order instigating transgression or corruption on the Earth. The Prophet said: "No obedience is due to any creature whosoever enjoins the disobedience of the Lord Creator."

This clearly reaffirms that, within the Islamic community, woman enjoys a better position and full rights as a dignifiul human being. Application of Islamic tenets could be faulty here or there. So, we have to differentiate between Islamic principles and Muslims' compliance and implementation thereof. Examples include forcible guardianship in some Muslim families, which compels young women to marry against their free will, and the ghastly distinction made between certain children, to the neglect of others. This is in no way derived from Islam, but simply a tribal legacy that has come down from the age of ignorance.

2. The Status of Woman in Earliest Legislations

The oldest known man-made law on earth was that of the city of Babylonia which dates back to twenty-three centuries before the advent of Christ. This law primarily granted the lord of the family the right to sell his wives and children, or present them as gifts for a certain time. It also provided that a divorced woman should be expelled from her lord's home and thrown into the holy river. If her lord was unwilling to kill her, she was outsted half-nude, as a punishment and a sign to other people that she could be piccked up by whomsoever. (4).

2.1 Hammurabi Law:

Prince Hammurabi of Babylonia issued the first and oldest law implying the protection of conjugal life and wives against the harshness and recklessness of man. This law, however, put women in a miserable situation of dependency and oppression. It stated, for instance, that: "A

(4) Jean Debec: "Status of woman in Hamurabi & Mosaic Laws", translated by Salim Akkad, p. 33

wife who neglects her husband's desires or causes the disintegration of her family home shall be submerged to death in the Holy River" (Article 143). In another part it ordered that "A wife accused of adultery without tangible evidence shall be thrown into the Holy River. If she floated she was considered innocent, otherwise she drowned and died in shame." (Article 129).

2.2 The Torah Commandments:

The Old Testament (Torah) was the first divine law sent to mankind in the post-Babylonian era. Most of it was distorted by the Jews. In the Book of Numbers (verses 5-17) it was stated that "A woman accused of adultery shall be brought before the priest who will give her to drink bittered-water mixed with holy dust. If guilty, the fluid will penetrate into her bile, inflate her abdomen and deform her knees. This is a sign of perpetual damnation among her people. If innocent, the fluid shall not do her any harm".

2.3 The woman in Medieval Europe

a) The heinous crimes which were committed in Europe in the Middle Ages against women are no secret. A horrible means devised for perpetrating oppression on women was a tightly sealed "Chastity Belt" to prevent them from having sexual contact with men other than their husbands when these were absent from home. A famous sociologist, Herbert Spencer, reports that until the 11th Century A.D., European men had the right to sell their wives. This awful right was thereafter restricted to only lending or renting the woman. (5).

b) Traffic in wives continued to be in vogue in England up to the year 1805. The price was then fixed at only sixpence.

In 1931, an Englishman sold his wife for the sum of £500. An attorney pleading for him argued that it had always been a legal and common practice in old England to sell wives on the condition that they consent. But the Court dismissed this argument and asserted that the said law was abrogated in 1805 by another Bill forbidding women to be trafficked in. The convict was sentenced to a ten-month prison term. (6)

c) In the 5th Century, the "Council of Macon" convened to consider "the truth of woman": Did she possess a soul like men? It finally decided that, exception made for the immaculate mother of Jesus Christ, all women, unlike men, have an evil soul destined to permanent damnation and everlasting torture in Hell.

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(5) Dr. Mostafa Al-Sibai: "Woman between Jurisprudence and man-made law," pp. 20, 21

(6) Dr. Mostafa Al Sibai; "Woman between jurispudence and man-made law", pp. 20, 21.

The early Fathers of the Christian Church held woman responsible for the "Original Sin". Some asserted that women's bodies were "the gate of the Devil" and, as such, they should be constantly cursed.

d) In the year 586, a council of wise men met in France and gave the inhuman verdict that woman did not belong to the human species, for she was created exclusively to serve man.

e) At the outbreak of the French Revolution, the universal principles of "freedom, fraternity and equality" did not extend to women's rights. The French Civil Code, before its amendment in 1942, regarded woman as legally incapacitated. She was not allowed to conclude a contract without formal consent of her tutor. The subsequent amendment granted the unmarried adult women the right of contracting and economic independence. But the right to contract for sale, acquisition, grant or mortgage was unallowed to a married woman without prior consent or authorization from her husband.

Abnormal distinctions still widen the gap between the two sexes in most European and Western countries at the present time. Examples include unequal wages in equal tasks, and the loss of woman's family name and economic independence at marriage.

2.4 Iniquities in Pre-Islamic Arabian Society:

The condition of Arabian woman, before Islam, was miserable. She had no independent status or rights of any sort. This bad position, however, did not attain the extent of degradation and cruelty predominating in other European and Western countries. This resulted mainly from the old Arabian traditions of bravery and gallantry which dictated to man a special attention to protect woman and defend her. But, still, the outstanding injustices inflicted on the Arabian woman were many:

a) Woman was stripped of her right of inheritance on the grounds that she was exempted from making war. This right was restored after Islam and Allah ordained:

"In no wise covet those things in which Allah hath bestowed His gifts more freely on some of you than on others; To men is allotted what they earn and to women what they earn." (IV-32).

b) Woman was looked upon as a source of humiliation to the family and, as such, female infanticide was widely practised among Arabian tribes.

c) Woman had no right to renounce the matrimonial union under any circumstances. The husband could divorce her a hundred times but still keep her under his guardianship.

Islam restricted the husband's right to two divorces. On the third one, the separation becomes irrevocable: "Divorce is to be pronounced twice; then, either keep them in kindness or release them in kindness" (II-229), and the divorced women should keep themselves "for three menstrual courses" during which the husbands have a better right to take them back if they desire reconciliation.
"And women shall have rights similar to the rights against them, according to what is equitable. But men have a degree (of advantage) over them" (II-228).

This prerogative of men will be discussed in Chapter 5.

d) Before Islam, man was entitled to marry and keep in wedlock an unrestricted number of wives. Islam limited the number to a maximum of four, provided that the husband could treat them with perfect equality:
"But if ye fear that ye shall not be able to deal justily with them, then only one" (IV-3). The religion of Islam, therefore, should not be considered as the initiating source of polygamy. For it had not created polygamy from nothing, but rather it imposed prohibitive restrictions and controls.

e) A young woman had no liberty to choose her husband. As widow, a woman was to be inherited along with the property of her deceased husband. A step-son or brother would throw his gown onto his father's or brother's widow to possess her against her will. Allah prohibited this pagan habit:
"Ye are forbidden to inherit women against their will. Nor should ye treat them with harshness, that ye may take away part of the dower ye have given them" (IV-19).

Islam did not only abrogate such unfair principles and laws, nor did it simply promulgate the well-founded rules for woman rights, but it also strongly established these rights in day-to-day practice. The Prophet bade all Muslims to behave most humanely towards their wives and was reported to have assisted his own wives to perform the daily household duties. Imam Bukhari quoted Aisha as saying: "The Prophet was busy helping his family at home until prayers were called for, then he would leave to the mosque."

The Prophet's words explain this concept very eloquently when he said: "The more perfect amongst you is the more kind to his family, and I am most kind to mine". (Reported by Ibn Maja & Al Darami under "Nikah"), and when he said: "The more civil and kind a Muslim is to his wife, the more perfect of faith he is". (Tirmidhi, Abu Daoud, Ibn Hanbal & Darami).

Imam Muslim recounts that Omar Ibn Al Khattab said: "In the Age of ignorance (Jahiliya) we never used to consider a woman's opinion, until Allah revealed His commands making sure the fair sex have equal rights with men. My wife once proposed: "Omar! If you did so & so.....", I blamed her: "What have you to interfere in matters of my own?". She replied: "Do not be so reluctant to accept my advice. See how your daughter (The Prophet's wife) contends so vehemently the Prophet's opinion that he would be angered a whole day." I hurried to Hafsa and warned her that she may so displease Allah and His Apostle, but Umm Salama asked me furiously: "What do you think you can do by so interfering between the Prophet and his wife?".

3. Social Inquities in Europe:

The famous British thinker, Bertrand Russell, detailed in his title "Religion and Science", 1935, the ignominious attitude which Europe exhibited towards science since the Middle Ages and onwards. He recounts that the huge number of practitioners spreadout in large European towns had acquired advanced knowledge out of the work of early Muslim medical scientists. Nevertheless, the Christian Church adamantly insisted on accusing them of witchcraft, particularly after the decision of Pope Bonifacio to prohibit "Anatomy" on the grounds that this will prevent the resurrection of human bodies as they were initially created by God.

As a result, more than 300,000 convicts were sentenced to death; out of them 32,000 were burnt alive (7) including the renowned astronomer "Galileo Galilei", who was forced to abjure before the "Inquisition" his theory on the rotation of Planet Earth, and had to take a solemn oath that he strongly believed in all past, present and future tenet of the Church. The Protestants, after the Catholic Church devised new means of persecuting the learned scientists, who were still dubbed as wizards. The vague term — witchcraft — remained, however, void of any specific sense. St. Jeanne D'Arc, for instance, was tried as a sorceress and burnt to death.

During this period, women received a considerable share of the irreparable cruelty and oppression inflicted under the Church directives. In Germany alone, more than 200 established female-alchemists were sentenced to death by fire between the years 1450-1550.

A contemporary Christian writer noted that most of the people's widespread superstitions and taboos essentially owed their existence and driving force to the Church itself. Examples include the unchanging scene of innumerable believers flowing into the town of Palermo in quest of

(7) Abdul Rahman Wassel, "Problems of the Youth", Cairo, 1984.

miraculous cure in the bones of Santa Rosalia. They kept pouring into her Church despite the fact that these bones were declared by a specialist osteologist to belong to a goat. (8)

It is also true that when the smallpox vaccine was discovered in the 18th Century, it was vehemently objected to by the French Scientists of the Sorbonne on religious grounds. The Scottish Clergy were clear when they dubbed it, in a universal manifesto, as an attempt to defy the will of God. Anaesthesia was rejected, too, by the Christian Church when Dr. Simpson successfully applied it in 1847 to delivering women in his maternity hospital. Clergymen said it stood against the divine spirit and injuctions, since the Lord had decreed after the fall of Adam that Eve "shall deliver with all pains" (Genesis 3/16).

This era of vast and heavy religious authority was, in fact, a sombre indictment of human injustice to women in particular and the lower classes of society at large. Throughout many centuries, the people in Europe were exposed to the heinous feudalism whereby an influential elite of nobility owned the land and its poor farmers, vassals, animals and other belongings. To the continuous oppression, killing and indescribable torture and horror spread by the Church-sponsored "Inquisition", followed some humane corrective movements led by European reformists. They were climaxed by the outbreak of the French Revolution which hoisted the slogans of: Liberty, Fraternity and Equality.

A totally different reaction was demonstrated in the theory of Karl Marx, based on his allegation that "Religion is the opium of the people". He proposed that the cure should be a total denial of all religions, God's Apostles and their messages. This was seen as an inevitable corollary of the Church's rigid attitude towards science and its compromise with the feudal system widely in application in entire Europe.

Nothing of the sort is found in Islam, because eleven centuries before the French Revolution, the Revelation - which stands for life-fulfilment - came to direct humanity to fully use its faculties and contemplate God's Signs in His Creation of the universe. Allah says:
"Say: Behold all that is in the Heavens and on Earth" (X-101) and:
"Say to them: travel in the Earth and see how Allah did originate the creation". (XXIX-20).

The Holy Quran made it clear that all former Messengers of God were

(8) Dr. Lewis Awad, an article published in the daily "Al-Ahram" on 6.3.1970.

also sent to lead mankind from the depths of darkness into light. Their message, far from approving any kind of persecution and oppression, was in essence to promote the principles of equality, justice, and subservience to one God. Allah says:
"We sent aforetime our Apostles with clear signs and sent down with them the Book and the Balance (of right and wrong) that men may stand forth in justice". (LVII-25).

The strange claim propounded by Marx against religion - the opium of the people-involves the futile sense that his heavens shall be the reward of those who do accept and adapt to social injustice. Fourteen Centuries before the advent of Marx, the Holy Quran predicted such situations, refuted their mischievous allegation and showed the way to resist their implications. Allah says:
"When the Angels take the souls of those who die in sin, to their souls they say: "in what plight were we?". They reply: "Weak and oppressed were we in the Earth!". They say: "Was not the Earth of Allah spacious enough for you to move yourselves away from evil? "Such men will find their abode in Hell - what an evil refuge!" (IV-97).

Thus Mohamad, the Seal of the Prophets, strictly applying the divine ruling and limits, repulsed the mediation offered by Osama Ben Zaid to pardon a woman of the Meccan nobility accused of theft, and said: "Did you dare, to mediate in the limits ordained by Allah. Oldest nations have perished because they would leave unpunished a nobleman who steals, but would strongly keep these limits if the thief is one of the oppressed people. By Allah Almighty, if Fatima, daughter of Mohamad, steals, he shall not hesitate to cut off her hand".

3.1 Blind Imitation:

True to the traditions of slavery and blind imitation, some Muslim thinkers put aside Islam's rudimentary principles, which represent a complete code of life, and gear themselves toward exalting alien Eastern and Western ideals and introducing them into the Islamic society. Examples are many:

3.1.1 The tendency toward westernization was conspicuous in the enthusiastic statements of the Kemalists who overthrew the Islamic Caliphate in Turkey. Aghaoglu Ahmet summed it up in these words: "We are determined to imitate, in all aspects of life, the only one civilization in this world, the Western civilization". (9)

3.1.2 An Egyptian thinker, Mohamad Tawfik Dyab, dubbed as progressivist,

(9) Dr. Mohamad Hussain: "Nationalist trends in Contemporary Literature, Chapter 1, p. 2.

wrote in the weekly 'Asseyasa' on 19.6.1926: "I wish to ask our people in the Muslim East: Do you really need to cling to the defunct ancestral ideas about woman's chastity and preservation of purity, or is it preferable to adopt modern conceptions of sex and life? This will eliminate the moral limitations which restrict a man to contact with only his wife, and a wife to only her husband".

3.1.3 In some Arab countries, claims for the freedom of organized prostitution and popularization of the Western concept of sexual relations have been loudly heard. In this connection, we must remind ourselves that the participants in "the International Women's Conference", held in Berlin during October 1975, strongly called for the freedom of homosexuality for both sexes. It is to be mentioned that the implementation of a Bill promulgated in a North European State to permit sodomy between the male population resulted in tragic consequences, especially between adult homosexuals and male children in the primary schools who were caught in the whirlpool of sexual immoralities.

3.1.4 Islam was alleged to be a religion of mystic rites. Some reformists blindly viewed that, as such, Islam could be supplemented by the principles of Karl Marx' theory in Economics or Durkhaim in Sociology, etc., even though they made lawful what Islam had prohibited.

3.1.5 The textbooks of social studies, at different educational levels, suggest that the maintenance of the past - whatever its nature may be - precludes the formation of free public opinion. This past normally includes the Messengers of Allah and their Messages. So, strict compliance with the call, sayings and deeds of our ancestors and past leadership - including the Prophets and most-guided holy men - will hinder the development a free and enlightened self-opinion.

The propagators of evil exploited the vulnerability of the modern Muslim woman in order to drive her away from Islam using the luring slogans of emancipation and equality against holding fast to the weatherworm traditions.

Nevertheless, it is true that Islam has given its followers the freedom to handle their own affairs as concerns the worldly means of living, in the fields of industry, commerce, agriculture, construction, etc. The Prophet once said: "You are most acquainted with the matters of your own in this world".

Islam only requires from woman to be as pious and honest in her appearance and behavior as in her innermost feelings. Can such requirements

of purity and dignity be described as ancestral and reactionary, while deviation and homosexuality are considered elements of human progress and civilization?

3.2 Woman and the class system

Woman was deprived of her legal and basic rights under all past civilizations and cultures, even those that were attributed to heavenly scriptures. Injustice was inherent in old legislations because they were formulated by an elite nobility with the aim of safeguarding a class system. Such a system was to harm, not only women, but also all the underprivileged and oppressed common people. It is so strange that injustice was at times exercised in the name of religion, whereas the messages of God categorically dismissed any form of inequity between humans. Apostles of God were sent to bring people out of the darkness of man's injustice into the light of the Lord Creator's full justice. Allah says: "We sent aforetime our Apostles with clear signs and sent down with them the Book and the Balance (of right and wrong) that men may stand forth in justice" (LVII-25).

It is also true that most cruelties, injustices and oppressions adopted by the Religious thinkers in Europe during the era of Feudalism were inherited from older civilizations:

3.2.1 The **Hellenic civilization** - having democracy and equality as its basis - restricted the citizenship in Ancient Greece to free men. The slaves and women were granted no right of citizenship since they had no official occupation or participation in public affairs. Further, Aristotle considered that "Bondage is most necessary to realize Democracy". Plato, in his utopian "Republic", suggested "equality" as a remedy, but insisted that women and gold should remain common property of the rulers and army commanders. The philosophy of Aristotle centered on the concept of woman being most inferior to men: "Woman is the greatest source of chaos and disruption in the world" and the Ancient Hellenic rules entitled the head of the family to sell his wives and children.

3.2.2 In the **Roman civilization,** (509 B.C), society was based on class system consisting of only nobility and common people. The latter had been totally stripped of civil and social rights while shouldering alone the heavy obligations of paying taxes and making war. Woman was generally granted no rights of any kind since the statutory rule considered women as incapacitated as the insane and children.

3.2.3 **Hinduism:**

a) In **Brahmanism,** the "ordinance of Manu" divided the Hindu society into four castes: the priests, the warriors, the traders and the fourth comprised both the untouchables and the slaves. Punishment varied with the individual's caste and the third and fourth castes were, in general, deprived of any basic right. 'The Priests' retained all general rights which were to be protected by 'the warriors'. But for woman, she was believed to be born as a sinful soul and hence destined to eternal slavery.

b) **Buddhism,** as a peaceful reaction, sought to abolish the class system of the Brahmas in order to achieve its ideal of equality between mankind. Its followers had initially to dispose of their worldly life and property to attain salvation. The company of women was also opposed to the ultimate Buddhist goal, i.e. the annihilation of desire. So, the best society should be made up of only celibate males.

3.2.4 **Persian civilization:**

a) The principles of **Zoroaster** provided for a multiclass system in which presence the society is expected to function better. A woman slave, from the lowest class and believed to be innately mean, could be offered by her Lord to the Temple. She thus passed into the control of the priests and would serve as a religious prostitute. Her gains would be dedicted to the temple. (10).

b) The call of **Muzdok** centered on an equal distribution of women and property among all people. His anarchist followers were to attack the nobles and vassals of higher classes to overtake their wives, daughters and gold to realize his claim of "equality" (11).

3.3 Equality in Islam

As we have seen how the principles of justice and equality were misinterpreted by the different old religions and past cultures, it will now be possible for us to understand how Islam came to bring mankind out of the prevalent confusion and humiliation. As a universal religion, Islam addressed its message to all people:

"O Mankind! Reverence your Guardian-Lord who created you from a single soul; created - of like nature - his mate, and from them twain, scattered (like seeds) countless men and women" (IV-1).

Nobody on Earth is excepted, and even to the Messengers of Allah the

(10) Moh. Shahin Hamza: "Human Rights between East & West", p. 71.

(11) Shahristani: "Faiths and sects", p. 329 - Al Tabari: "History of Nations and Kings".

same code of creation applies. Allah revealed to His Apostle: "Say: I am but a man like yourselves" (XVIII-110).
Man and woman, Islam proclaimed, had come from the same essence: "Allah hath given you wives of your own kind" (XVI-72) and the Prophet Mohamad declared: "Women are the twin-halves of men". He rejected any discrimination between male and female children: "If I should have to make any preference, it would be for women". Accordingly, Ibn Hazm (456 H) stated that "The jurisprudence of Islam bounds equally men and women. Injuctions of duties and obligations were addressed to women as they were to men, save in matters bearing on physical differentiation considered as specific to any of them".

A fundamental principle of Islam is that both sexes have equal rights. The Apostle of God was simultaneously sent to all freemen and slaves together, without discrimination against either of them except what was explicitly stated in the Holy text.

When the nobles of the hostile Quraish offered to embrace Islam on condition that they have a different sitting with the Prophet than that which was attended by the common folk and slaves, he was about to accept their condition in the hope that such sensitivities could be removed after they had understood what Islam really stood for. But Angel Jabriel came down with the following revelation:
"And keep thy soul content with those who call on their Lord morning and evening, seeking only His face. And let not thine eyes pass beyond them seeking the pomp and glitter of this life. Nor obey any whose heart we have permitted to neglect the remembrance of us, one who follows his own desires, whose case has gone beyond all bounds. Say: The truth is from your Lord, let him who will, believe and let him who will, reject" (XVIII-28,29).
Allah then revealed to His Apostle:
"And their purpose was to tempt thee away from that which we have revealed unto thee to substitute in Our Name something quite different; (in that case), Behold! They would certainly have made thee their friend, and had we not given thee the strength, thou wouldst nearly have inclined to them a little. (in which case), we should have made thee taste an equal portion (of punishment) in this life, and an equal portion in death; And moreover thou wouldst have found none to help thee against us" (XVII-73, 74, 75).

Liberty and equality were not a fundamental policy applying only to Muslims, but they were similarly acknowledged as substantial

elements in the Muslims' dealings with their enemies and rivals during times of war and peace. Allah said to His Apostle:
"Now then, call them to Faith and stand steadfast as thou art commanded nor follow thou their vain desires; but say: I believe in the Book that God hath sent down, and I am commanded to judge justily between you. God is our Lord and your Lord. For us is the responsibility for our deeds and for you, for your deeds: There is no contention between us and you. God will bring us together, and to Him is (our) final goal" (XLII-15).

The Holy Quran recounts that when Prophet Abraham prayed to God that only those who believe should be granted exclusive rights to work, earn their living abundantly and lead a prosperous life, God Almighty did not accept such a claim. Rather, God emphasized that this right is equally extended in this world to both believers and unbelievers. The latter will be brought to His judgement in the Hereafter and the evil will be consigned to Hell-fire and eternal misery. God says in the Holy Quran:
"And remember Abraham said: "My Lord, make this a city of peace, and feed its people with fruits such of them as believe in God and the Last Day". He said: "Yea, and such as reject Faith, for a while, will I grant them their pleasure, but will soon drive them to the Torment of Fire, an evil destination (indeed)" (II-126).

The Holy Quran and other Islamic texts enjoin Muslims to treat non-Muslims in a kind and fair manner. Allah said: "God forbids you not with regard to those who fight you not for (your) Faith, nor drive you out of your homes, from dealing kindly and justly with them, for God loveth those who are just. God only forbids you with regard to those who fight you for (your) Faith, and drive you out of your homes, and support (others) in driving you out, from turning to them (for friendship and protection), it is such as turn to them (in these circumstances) that do wrong" (LX-8, 9).

Moreover, Prophet Mohamad recommended that the Islamic State protect the Christian and Jewish communities that are under its rule and gurantee them the free exercise of their religion. Addressing his companions, he once predicted: "You will conquer the land of Egypt. When you enter it, be kind and friendly to its people because they know the Book and are close relatives. Whenever you see two people in dispute even over the placing of a brick, you shall not interfere" and he also said: "He who does any harm to the people of the Book, I shall be his rival" (related by Muslim).

4. Islam and the "Universal Declaration of Human Rights"

The elite men of law and opinion around the world stood amazed by the idea of "equality of all humans" as formulated by the United Nation's universal "Declaration of Human Rights" issued on 10.12.1948. However, in practice, its application had greatly stumbled because most of the world's Eastern and Western States were not bothered to ghastly violate its provisions.

It is needless to say that, on this special occasion, all ignored the fact that the Holy Quran and the Prophet's Traditions had, since 15 Centuries ago, strongly called for the equality of all mankind and had secured its realization in the stream of day-to-day life.

The Holy Quran stressed: "He created you from a single soul" (IV-1) and the Prophet stated on many occasions: "You are all sons of Adam, and Adam was created from dust" . (related by AbuDaoud), and also said: "It is forbidden to take the life, honor or property of another Muslim".

If we come to the social realities, we will come across many good examples of which the most outstanding is the story of Zaid Ben Haritha, one of the first to accept the Faith of Islam. He was a freed-man (of unknown origin) whom the Prophet adopted and loved as his own son, and therefore gave him in marriage his own cousin Zainab Bint Jahsh. The noble, highborn Zainab and her brother looked upon Zaid, the former slave, and were reluctant to enter into marriage. He was a good and pious young man and that seemed enough. The orders of God were then revealed to the Prophet to remind all mankind that "equality" is a fundamental principle of Islam. As such, its application should be guaranteed:
"It is not fitting for a believer, man or woman, when a matter has been decided by God and His Apostle, to have any option about their decision. If anyone disobeys God and His Apostle, he is (indeed) on a clearly wrong path".(XXXIII-36).

The wisdom of Allah then prescribed that their marriage be unhappy. There was mutual incompatability and both wished to divorce. God then enjoined His Apostle to accept their separation, and to take the divorcee, Zainab, in marriage. This implied the abrogation of an important rule long established in the mores of "the Age of Ignorance" whereby "the adoption" of children was treated as full "blood relation" because the Prophet's marriage with Zainab would be, from the Quraishi point of view, illegal since she was the divorcee of his own

adopted son. The verses to annul this pagan custom overtly showed the reasons when it was revealed to the Prophet: "God has not made for any man two hearts in his (one) body; not has He made your wives whom ye divorce by Zihar your mothers, nor has He made your adopted sons, your sons. Such is only your manner of speech by your mouths. But God tells you the truth and He shows the right way. Call them by the names of their fathers: that is juster in the sight of God. But if ye know not their father's names, call them your brothers in Faith". (XXXIII-4, 5). Since "adoption" is not allowed in the Muslim law, the truth cannot be altered by men's adopting sons. Allah said: "Mohamad is not the father of any of your men, but (he is) the Apostle of God, and the seal of the Prophets". (XXXIII-40).

There remained some fear in the mind of the Prophet from the increasing animosity of the Quraishis. True to their pagan customs, they seize the opportunity to tarnish his reputation. So, the Prophet concealed the order of God to accept the wish of the couple to divorce and did his best to reconcile them. He hoped that the resumption of their conjugal life may free him from a divine order to marry Zainab after her marriage with Zaid was broken off. But God's plan must eventually be an established fact:
"Behold! Thou didst say to one who had received the grace of God and thy favour: "retain thou (in wedlock) thy wife, and fear God. But thou didst hide in thy heart that which God was about to make manifest: thou didst fear the people but it is more fitting that thou shouldst fear God. Then Zaid had dissolved his marriage with her with the necessary formality. We joined her in marriage to thee in order that (in future) there may be no difficulty to the Believers in their marriage with the wives of their adopted sons, when the latter had dissolved, with the necessary formality, their marriage with them. And God's command must be fulfilled" (XXXIII-37).

In spite of the clear motives extended in these verses of the Holy Quran, the enemies of Islam used God's statement: "But thou didst hide in thy heart that which God was about to make manifest" to evidence the Prophet's passion for his cousin Zainab which he sought to conceal. It is also sad that some Muslim writers repeated the same slanderous story to plead for what they thought correct. Dr. Bint Al Shati' said in her book titled "The Prophet's Wives": "Could anybody deny for the man - Prophet to know and admire such a noble woman as Zainab and then do what was exactly expected from a person like him, of very high ethics, chastity and conscience. Thus he lowered his gaze and hid his affection in his heart". She then proceeds: "This story, as

related to us by the narrators of the Prophet's biography, no doubt rises him to the uppermost peaks of chastity, self-restraint and harnessing of desire which can be afforded by a human" (12).

Other writers have, in turn, refuted this interpretation of the Prophet's behavior. Mrs. Widad Sakakini, in her book: "The Mothers of the Believers" said that: "reiterating the same interpretations coming down to us from unreliable sources could not be a decisively evident argument. Dr. Bint Al Shati' has unjustly persisted on the Prophet's manhood to support the slanders propagated against the Apostle of God and his message. If the Prophet had considered polygamy from the perspective of his manhood, he then would choose his consorts. He was certainly capable to do so. This was not unusual for a man of his standing among his people. But he did not because there were many other considerations which governed his marriages, such as bringing about a solution to a tribal problem or clemency to a suffering widow who was among the first to migrate to Medina, or settlement of a dispute about to disrupt the unity of the believers".

Ibn Kathir reaffirmed in his "Exegesis of the Holy Quran" that the story of the Prophet's hidden love for Zainab was baseless and could not be confirmed. He then cited the interpretation of Imam Al Hassan who said that "God had revealed to His Apostle, long before the divorce of Zainab, that she would be among his consorts. So when Zaid wished to divorce her, and the Prophet asked him "to hold his hand", the verses of Quran were revealed to highlight the fact that God had informed His Apostle of her divorce from Zaid and her marriage with the Prophet who hid this news in his heart, while God's Will prescribed it to be manifest.

Mrs. Widad Sakakini further comments on polygamy, saying that "it was common practice among the Arabian tribes and traditions". As a universal religion, Islam seeks to meet the exigencies of all times. Polygamy does not represent any fundamental principle of the Islamic law; rather it is just a medicine for the diseases of the society. What Islam requires of men is justice in its material sense, which can be realized, and in its psychological sense, which is most difficult to achieve. The Prophet used to say: "O God Almighty, this is my prayer in things which I can control; so, condemn me not for that which you can control and I can't".

There is no doubt that the universal "Declaration of Human Rights" achieved many such basic principles as conceived by Islam 14 Centuries ago. But the "Human Rights" provisions remained short of application in a large

(12) Dr. Aisha Abdul-Rahman (Bint Al Shati'): "The Prophet's Wives", p. 157.

number of States and had not proven as firm and just as Islam's concept of equality.

5. Ialam and the "emancipation of woman"

From the outbreak of the French Revolution in 1789 up to today, woman has been lured away from the home and family by slogans which claim to emancipate woman and make her role of mother as unrewarding in order to propagate an exaggerated ideal of equality between man and woman.

The Arabs were deeply affected by these slogans and the calls to embrace the movement of emancipation were firmly footed with complete disregard to what is permitted or prohibited, and what is right or wrong in the sight of Islam. In the following section, we discuss in brief the Status of Woman in Europe and the extent of equality achieved by woman up to the modern times:

5.1 Woman remained for a long time as a mere nonentity, subject to be sold or simply presented as a gift. In his book "Social Science", Herbert Spencer said that Englishmen, between the 5th and 11th Centuries had the right to sell their wives and lend them to other men for a certain period. This right was only abrogated by a decree issued in 1805.

5.2 In all legislations preceding the European Renaissance, woman was considered as legally incapacitated. She had no right to appear in witness before a court, nor conclude any contract. She was substituted by her father or husband in such circumstances.

To remedy this situation, the French Civil Code stated in its Article No. 215 that "A woman shall appear before the court only with her husband's consent". Article No. 217 also prescribed that "Woman shall not be entitled to contract any sale or grant without formal participation of her husband in such contracting or his written consent. In case the husband is a minor, she must secure a legal authorization for either appearance in court or contract conclusion."

5.3 European woman, after the Renaissance, remained subordinate to her husband since, at marriage, she would lose her maiden name and legal entity. Her own consent in any thing also remained immaterial.

The so-called revolutionary movement of emancipation in Europe and America was aimed at liberating woman from subservience to man so that she could have a legal independence and equal wages in similar work. Until 1942, man, in the eyes of the law, was alone entitled to administer his wife's property at his own discretion. After that date, she had to produce evidence, in order to exploit or dispose of her own property, proving that they do not

form a portion of the marriage dowry or the couple's mixed property.

Woman's independence still remained incomplete since she had to prove matters which stood out of her concern, supposing that all legal documents are in the husband's hands, or that she must secure his agreement thereon.

Now if we take up the position of woman in Islam, we shall find that, as a basic principle of its system, Islam holds that woman is a human being and thus entitled to equal and similar rights with man.

First: Woman keeps her legal identity and maintains her name and surname at marriage. She has the right to hold property and use or exploit it at will. Even though a wife accepts to waive her legal entity and substitute her family name with her husband's Islam prohibits it for women as for men. The Holy Quran says:
"Call them after (the names) of their fathers; that is juster in the sight of God" (XXXIII-5).

Second: Islam granted both man and woman equal right to refute the legitimacy and constitutionality of the laws, regulations and orders. An event which occurred during the rule of the Great Caliph Omar Ibn Al Khattab should preserve the pride and honour of the Muslim woman at all times. It was reported that the Caliph issued a decree whereby amounts of gold presented to women as dowry in excess of 40 ounces should be confiscated. This was aimed to prevent extravagance. But a folk woman attending the prayers at the mosque told Omar that she was opposed to his decree since it stood in conflict with the divine orders. She then cited a verse of the Holy Quran: "Even if ye had given the wife a whole treasure for dower, take not the least bit of it back" (IV-20). The Caliph rescinded his decision forthwith and said: "The woman was right and Omar was wrong".

Third: In the Pre-Islamic Era, woman had no right to choose her husband. Islam recognized, besides an independent economic status of woman, her right to assent to her own marriage. No marriage is considered valid unless she agrees to it.

Fourth: Before Islam, woman's absolute obedience was due to man as such, whether he be father, husband or ruler. Islam framed obedience within the limits of God and a rational context binding to all men and women. The Prophet said: "No obedience shall be to a creature who enjoins disobedience of Allah" and also "No obedience is due in the wrong, but obedience is in the right" (related by Muslim) which implies that trespassing the limits of God gives full right for nonobedience, while keeping His limits entails complete obedience, in fact due to the Lord-Creator but not for the creature's order in itself. Imam Al Ghazali said: "There is no (binding) rule nor command save

from Allah. But for the Prophet, the ruler, the master, the father, or the husband, if they give an order, obedience shall not be to their order, but to God's command to obey them "in what is right".

Fifth: In this important issue of equality, Islam proclaimed that woman stands at par with man on almost every plane of similarity: spiritual, moral and intellectual. "Women", declared the Prophet, "are twin-halves of men" and God said: "They (women) have rights liker those of men against them, though men have a degree above them" (II-228).

Quite in line with human nature, the only difference Islam makes is based on physical conditions and the respective constitutions of man and woman wherein equality would be outright injustice and ignorance. Thus, Islam allotted motherhood and upbringing of children to women and vested man with the family headship and the strenuous work in the outside world. It first acknowledged them both an equal status but then differentiated between both sexes as regards their functions in life. The ultimate authority regarding the administration of the family affairs was vested in the man, the husband, who was held responsible for the sustenance, protection and comfort of his wife. Allah said: "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them by their means" (IV-34).

Sixth: Liberty in Islam is as secured as Faith because religion relies also on a free will which would be meaningless if induced by force. Muslims, for instance, cannot compel non-Muslims to embrace the religion of Islam. Allah said: "Let there be no compulsion in Religion" (II-256) and He also said: "Say: the Truth is from your Lord, let him who will, believe, and let him who will, reject" (XVIII-29). However, the Islamic community is required to strive by all means in its power to prevent any violation of its established fundamental rights and moral values. Allah said: "And fight them on until there is no more tumult or oppression, and there prevail justice and faith in God" (II-193). Religion therefore will be regarded as the so-called "public order" now protected by all laws.

Seventh: Islam imposed no obligations on woman except those relating to the ethical values which are not meant, by any means, to degrade her or hurt her self-respect. The Muslim woman has been pressed to acquire knowledge and be courageous in objecting to man's opinions if they are wrong. "She was never restricted from exercising these liberties as it is now alleged that Islam imposes all sorts of restrictions on woman's freedom in all aspects of her life" (13). For both men and women, Islam seeks to safeguard

(13) Omar Telmessani: "Shahid Al Masjid: Omar Ibn Al Khattab" p. 219.

the family against disintegration. Woman is therefore urged to counterbalance her responsibility towards the preservation of her family, home, husband and children, and engagement in social work in public life. Such moral values and ethical mores have been considered an integral part of the innate nature of mankind. Their maintenance was called for by all previous religions and put into practice by the Holy Quran which inculcated respect for man and woman, and raised the ideal of family life.

6. Islam and "International Women's Year"

Before embarking upon a detailed discussion of the UN decision proclaiming 1975 as International Women's year, we will touch in brief on the position of woman in the West, which was at the basis of the decision. We have seen how woman, in Christendom, was mercilessly treated, deprived of any independent personality and considered fully incapacitated. Woman started, in the wake of the French Revolution, recovering some of her basic rights in a slow process which culminated, in 1920, with the declaration of the League of Nations' charter. It provided for the necessity to achieve better working conditions for both men and women.

It is however true that women in the West, serving in many sectors, continue to receive less pay than men do. She still bears her husband's name at marriage and remains deprived of the right of inheritance and the right to dispose of her own property as she wishes.

The 1948 universal "Declaration of Human Rights" met, since its very beginning, with many obstacles, raised mainly by conflicting views of both American and Soviet UN representatives. The former proposed that all individual member countries' legislations should include statements reflecting the spirit of this Declaration. The latter opposed the proposal because, he argued, it was a direct interference in the internal affairs of the member countries and a flagrant violation of their sovereignty. Article 22 was therefore formulated to say that "it should be observed that the legislations of the member countries shall be directed towards achieving equal rights and obligations for both husband and wife".

This provision has clearly overlooked human nature. For equality is due in whatever planes of physical and psychological similarities between the marriage parties. The rights in the social domain are not absolute because one's freedom ends as the other's freedom starts. Here too, equality and liberty should have their limitations and controls within conjugal life. If any human has the right to take a home anywhere he wants, the wife is excepted, because, as recognized by all world legislations, she must follow her husband

wherever he abides. Also, if woman has the right to marry whomever man at whatever time, this should not be viewed as an absolute right because it remains restricted for both virgin and married woman by the rights of the other party.

It is regretable that many Muslim men and women came to embrace, with some pride, the thoughts which have proven to be the West's refuse. In their blind imitation, they ignored that the call for "woman's emancipation and equality between sexes" in the West has its justifications, considering that woman still receives less pay than man despite having equal duties, expertise and qualifications. Also marriage turns woman into a mere non-entity and strips her of the right to sell, contract, exploit or dispose of her properrty without the written consent of her husband.

Rights and liberties in Islam have different implications from those of the West. It is supposed, for instance, that owning property does not involve an absolute liberty to dispose of it. Because in fact any kind of property is ultimately God's owning. Anyone who holds it is its heir and should observe the limits of God even in the way he enjoys the right to spend it. Allah said: "Believe in God and His Apostle, and spend (in charity) out of (the substance) whereof He has made you heirs" (LVII-7).

6.1 The Misleading Issue of Equality

The international resolutions are in most cases subjected to the conditions, beliefs, and social system of each country. They are implemented only within the permissible limits allowed by internal jurisprudence and strategies.

Coming under the impact of Western propaganda, some have foolishly championed the cause of perfect equality between both sexes with disregard to what Islam commands. This class of highly educated people and renowned thinkers confuse right with wrong in order to further their designs against Islamic society. Thanks to their ignorance, they do not see that the Lord Creator of man and woman had no interest in biasing unduly against either of the two sexes. He is All-knowing about what could be better for their course of life on Earth. Allah said: "Should He not know, He that created? And He is the one who understands the finest mysteries and is well-acquainted (with them)" (LXVII-14).

Islam treats all people according to the same laws and holds no distinctions among them. Only the general interest accounts, so that the entire community is but one hand, one body. However, it is obvious that the man-made legislations of our times have borne the various colors of their initators in the East or the West. But legislation in Islam is not to safeguard

the prerogative of any individual or class, and the Justice of God is but one, and for all. Allah said: "Verily, this is My way leading straight: follow it; follow not other paths, they will scatter you about from His great Path" (VI-153). Even with infidels and enemies, Islam commands us to deal with them fairly and kindly, unless they carry arms and wish to destroy us and our faity: "God forbids you not, with regard to those who fight you not for your faith nor drive you out of your homes from dealing kindly and justly with them, for God loveth those who are just" (LX-8).

6.2 The bleeding wound:

Despite the "Declaration of Human Rights" and may other endeavours exerted to relieve woman from suffering, her position in many respects remains unaltered. Apartheid, for instance, still governs social relations and prevents inter-marriage of whites with other races. Women have been vastly degraded to the status of society-butterflies employed as tools for pleasure marketeers. She still receives wages far less than her male counterpart in similar work. In addition, she is still considered incapacitated in matters of inheritance, property disposal, etc. as described in previous sections. The UN resolution No. 310/1974 to proclaim 1975 as International Women's Year stated in its preamble that the ultimate goal was "to put an end to the unjust discrimination between man and woman". This is exactly what Islam did 14 Centuries ago without forcing women to take up arms for their rights.

This specific goal was put into practice by Islam. It is not the fault of Islam that Muslims have neglected this cause of woman and isolated her from participation in the active community life which is in line with the Islamic principle of the division of labour, and imitates no Western patterns of life. In some parts of the Arab world, equality and liberty have taken the shape of complete deviation from religious values and full allegiance to the alien rightist or leftist thinking. While in other parts, fundamentalist trends have dropped the whole issue. They do not realize that the insulation of woman from public life is impractical, rather abhored by Islam which exhorts woman to learn and engage herself, whenever necessary, in all schemes of social uplift and national welfare. Therefore, a well-defined moral framework had to be laid down to clarify the right way of Islam. This will surely cut down thoughtless imitation of the West and protect our daughters and sisters against derogatory thinking and intellectual depravation.

The legal status of woman in the West was mostly derived from the Roman law which remains the source of legislation in many Western countries. The Roman law scrupulously classified women into 3 categories: (14)

(14) Dr. Mohd Badr & Dr. Badrawi: "The principles of Roman law" pp. 197-265.

1. **The** slave woman: a real non-entity owned by a master who had the right to sell or give her away.
2. The freed-woman: she was set free at liberty but still remained tied by a pledge of allegiance to her Lord who held the right to administer all her own affairs and property.
3. The free woman: she enjoyed a mominal liberty, being neither enslaved nor enfranchised. She was under permanent control of the head of the family and remained without any legal capacity to conclude or contract a transaction of any kind.

It is relevant to mention here that the Prophet's saying: "Allegiance is to whom he was enfranchised" marks the definiteness of Islam as regards the right of freed-slaves to be treated as all other similar free human beings. After actual enfranchisement, an ex-slave shall have no allegiance to anyone but himself.

The Ancient Roman law had been a source of legislation in many Western countries. It constituted the backbone of the modern French law from which some Arab countries too derived their legislations. Under this law the married woman was treated according to either of two legal positions:

First: Marriage contracted with recognized Lordship: whereby a woman passed at marriage under the control and lordship of her husband. Such contracted marriage implied full rights due to the husband and no rights to the wife.

Second: Marriage contracted without recognized lordship: whereby a married woman is nominally free but actually under the control of the head of the family during the normal exercise of the matrimonial rights legally vested with the husband.

6.3 Economic injustice and woman's legal entity

Modern legislations springing up from the Ancient Roman law mirrored its defects with repect to the economic ties between the spouses and the woman's legal entity. The lordship was reserved for the husband, at first, as an absolute obedience to his person. Later, it was amended in the French law to reflect obedience to the head of the family. Article 213 stated that a wife should obey her husband and dwell with him wherever he establishes a home.

Nevertheless, this lordship may generate deviant actions or call the husband to use his power to bid that which was forbidden. But, Islam came to teach that a man should be obeyed as long as he executes God's injunctions regarding the pure and harmonious conjugal life on Earth. If he transgresses

the limits of God, he should be disobeyed.

The French code implies actual subservience, but Muslim Jurists tried to close their eyes to it. Western wives are still financially dependent on their husbands, lose their maiden names at marriage, and have no legal identity of their own. The movement of "woman's emancipation" in the West revolves around these issues, while in the East it is seen as a means to destroy home and family, and perpetrate moral degeneration and free intermingling.

Islam allotted the children's upbringing - the most crucial part in the task of nation-building - to the woman who was given equal rights with man. She enjoys an independent economic existence and is entitled to exploit or dispose of her property without her husband's intervention.

In Britain, for instance, the inheritance system relies predominantly on testament to enable man to bequeath his property to whom he wishes albeit to his pet dog or cat. He is said to exercise his own concept of equality and freedom. Islam laid down its concept of liberty in line with its desire to implement truth and justice in practice. So the Muslim woman, as mother, wife, daughter and sister was granted the right to inherit. Man's liberty to bequeath his property was governed by an integral system of inheritance, where by wealth is transferred to a whole range of relatives to prevent its accumulation in one hand or one generation. Its accurate and just legislation promoted the French to dispatch a delegation of jurists to Saudi Arabia to adopt some of the systems provisions.

Thoughtless imitation lures our sight away from these facts and we simply ignore that Western equality has different reasons and purposes. These were clearly reflected in woman's economic status, and legal identity. The Amended French Code recognized the legal capacity for the married woman but stated in Article 216 that the financial systems jointly adopted by the spouses shall determine their rights and obligations and also held, in Article 213, both husband and wife responsible for the material and moral administration of the family's affairs. This Code also categorized the married woman's economic existence under 3 distinct systems:

6.3.1 **The Dower System:** under the French Civil Code (Article 1540), dower is the wife's marriage-portion brought to her husband to help in founding their conjugal life. It should be generated and agreed upon before the conclusion of the marriage contract, and may encompass all present and future property owned by the wife, further to any other holdings she agrees to present in contribution. The dower may not be subject to subsequent increase after the marriage conclusion (Articles 1540-1543). It passes immediately under the exclusive control of the

husband who will be, alone, entitled to invest, administer or exploit it. The marriage contract may provide for a fixed sum to be delivered annually to the wife to cover her personal expenses. Articles 1545 and 1605 prevented the mortgage or total disposal of the dower unless by full consent of the marriage couple.

6.3.2 **The mixed property system:** Property sharing by consent or written agreement may be explicitly stated in the contract, providing for mingling of the property of the couple. All such property in their possession at the time of marriage conclusion and during the course of their matrimonial life shall be liable to the sharing system (Articles 1393, 1400). It is the exclusive right of the husband to administer, sell or mortgage the mixed property without any need to get his wife's permission (Article 1421). However, her consent is required if this property is to be given in grant, even though this was for her children, but she cannot contract any transaction regarding the mixed property without her husband's consent (Article 1422, 1426).

6.3.3 **The segregate property system:** In case the dower or mixed property systems are not stated in the marriage contract, the segregate property system shall be applicable. Article 214 of the French Civil Code governs the couple's share in family living costs. Notwithstanding other conditions stipulated in the contract, both husband and wife share them in accord with their means. He shall incur the main living costs proportionate with his financial conditions, while she contributes with any means in her possession, in addition to the discharge of her household duties, and assisting him to develop and promote his career.

To keep the property gained from her work or any other source of income, the wife should have a different profession from the husband's. This kind of property may be included in the general guarantee to the husband's debts.

6.4 A nominal economic independence

From this brief review, it was shown that the French Civil Code, while dropping the conditions of the hushand's written approval for any transaction undertaken by the wife in the management of her own property, subjected the woman to many other constraints. Some are included in the marriage contract as the dower system which places the wife's property under the husband's exclusive authority. In the mixed property system a woman is also unable to conclude on her own any transaction or behavior concerning the joint property, while in a shared system it could be understood that all concerned parties are granted equal rights.

Other constraints are stated in the law text including stipulations that a married woman should produce evidence that the (segregate) property carried through is not a part of the dower or the joint mixed property. Another condition is the separate outdoor work for the married couple to enable their properties to be distinctly segregated from each other.

This Code is therefore a mere fiasco to woman, because an integral legal capacity necessitates the elimination of all conditions and constraints or simply dictates fairness and equality for both sexes. These implications are missing in the French Civil Code and other derived legislations in West Germany, Netherlands, Britain, Portugal, Belgium, in addition to some States of Latin America such as Brazil. Anyhow, the French Code, at the time as its amendment, was a true legislative revolt against older texts which had constantly considered woman as incapacitated, and persistently related her to the insane and minors.

7. The status of woman between theory and practice

Needless to reiterate that Islam, before any law, has already given to woman an equal human status and economic independence. In matters of finance and inheritance she is totally independent from her husband who was not given any right to interfere in the management of her property. As summarized by Ibn Hazm: "Woman is entitled to possess houses, gardens and estates, engage in business, guarantee other parties, give away whole or part of her dower to whom she wants without objection from the part of her father or husband". Allah revealed in the Holy Quran: "Unto men a fortune from that which they have earned, and unto women a fortune from that which they have earned" (IV-32). The Prophet also declared that: "Women are the twin halves of men".

Woman in Islam is not obliged to abandon her maiden name and be named after her husband. Her obedience is not to the husband as a human being, but to the divine marital law. Any deviation therefrom entails disobedience. The Prophet said: "No obedience is due to any creature whosoever enjoins disobedience of Allah".

Islam did not only abolish the pagan beliefs of the "Age of Ignorance" which mercilessly perpetrated female infanticide by burying them alive, while survivors were destined to permanent slavery and incapacity; but also laid down the practical basis of Islamic justice and equality. As a comprehensive system of life, Islam preached revolt against, rather than obedience to, injustice. Good examples of Islamic ideals to humanity are many:

7.1 The Prophet accepted the pledge of allegiance from women entering

Islam, apart from their fathers or husbands in implementation of God's revelation: "O Prophet! When believing women come to take the oath of fealty to thee, that they will not associate in worship any other thing whatever with God, that they will not steal, that they will not commit adultery, that they will not kill their children, that they will not utter slander, intentionally forging falsehood, and that they will not disobey thee in any just matter. Then do thou receive their fealty, and pray to God for the forgiveness of their sins: for God is oft-Forgiving and Most Merciful" (LX-12).

7.2 The Prophet raised up the status of woman in practice when it was related in many instances that he counselled with his wives and sought their advice in different matters during times of war and peace. Following the conclusion of the Hodaibya Truce, the advice of Umm Salma, the Prophet's wife, "saved the Muslims accompanying the Prophet from a grievous and lasting penalty" as reported by Imam Muslim.

7.3 Woman was also given the right to sponsor and grant safe asylum to man, and hence oblige all Muslims to honour her pledge of security. It was reported that Umm Hani gave a pledge of security to two unbelievers, her brothers-in-law, who were made captives of war by the Muslims. The Prophet respected her pledge and said: "O Umm Hani, we extend safety to whom you pledged shelter and grant security to whom you pledged security".

7.4 When Abul Aas Bin Rabi'e, husband of Zainab (the Prophet's daughter) was taken into captivity by the Muslim Army, considerable funds belonging to Quraishi leaders were found with him, seized and distributed as spoils of war. Abul Aas solicited security from Zainab who had left him when their marriage was dissolved because he chose to remain pagan and did not accept Islam after the coming of God's order: "But hold not to the guardianship of unbelievers" (LX-10). When the Prophet was informed, he said: "Even the lowest Muslim is entitled to give a pledge of security"(15) So the captive was released and returned safe with the Quraishi funds to Mecca where he declared his conversion to Islam. He then came back to Medina as a Muslim and returned to his wife, Zainab.

7.5 Aisha, Mother of the Believers, was clever and learned in jurisprudence, knowledge and Hadiths (Prophet's sayings); she was an important authority often consulted by the most-guided Caliphs. To the great companions she would correct any reported traditions on the life

(15) Related by Ahmad p. 2/275, 365 - p. 4/197 - p. 5/250

of the Prophet. An old Islamic writer (Al Zarakeshi) compiled her corrections and arguments in a separate volume. Among these, Imam Muslim reported that Abdullah Bin Al Aas gave religious advice to women in Mecca stressing that they should undo their braided hair during ablutions. When Aisha was informed, she said: "What a strange advice; he should also have asked them to cut off their hair. I and the Apostle of God used to bathe from the same jug and I did no more than three rubbings on my head with water".

7.6 Abu Hureira once reported that the Prophet said: "The superstitions are referred to women, animals and the home" but Aisha came to correct this saying and told Abu Hureira: "By God who sent down the Holy Quran, the Prophet never said it like that, but he said: "The pagans in the Age of Ignorance used to say that the superstitions are referred to women, animals and the home".

7.7 Abu Hureira also reported a Hadith as follows: "The prayers are interrupted by the (close crossing) of women, asses and dogs". Aisha intervened to correct his mistaken statement and said: "You had thus likened us to the ass and dog. By Allah Almighty I saw the Apostle of God praying while I was lying down on my bed between him and (Qibla) the direction of Mecca".

7.8 The young emigrant Umm Qais left Mecca on the Prophet's orders to migrate to Medina, but she was betrothed to a young man who was compelled to follow her steps. Imam Bukhari reported that the Prophet said of his case: "Actions shall be but by intentions and every man shall have what he initially intended. Thus he whose migration was for the sake of Allah and His Apostle, his migration shall be to Allah and His Apostle, and he whose migration was for the sake of worldly benefit or a woman to marry, his migration shall be to that same which he migrated for". In the new society, the young man was often called 'the emigrant of Umm Qais'.

7.9 History also recorded that when the Great Poet Kuthayyir Bin Abdul Rahman (known as Kuthayyir Azza after the woman he loved), a large number of women attended his funeral with mourning dresses and many tears. Imam Mohamad Al Bakir ordered that women be driven away, saying: "Get back O women-friends of Joseph!" But a woman among the assembly retorted: "You are right, we - women-friends of Joseph - were more friendly and kind to him than you men". Following the burial of the Poet, the woman was brought before Imam Al Bakir who asked her how women were better than men. She solicited a pledge of security,

then explained: "We invited Joseph to eat, drink and enjoy the delights of life, while you men threw him into a deep well, sold him at a very low price and finally sent him to prison. Who was therefore more sympathetic to that Prophet of God?" Imam Al Bakir said: "A woman who fights (for her dignity) is never defeated". He asked: "Do you have a husband?" She replied: "Yes, but I prefer to be identified with no-one but myself".

This woman, Zainab Bint Moekab, knew how to best use the rights which Islam granted her and was confident that her liberty was comprehensive and true.

7.10 Islam gave the freed-woman, who was married during her slavery, the right to dissolve the marriage which was contracted against her free will, and to divorce a pagan husband if he did not accept Islam, as we have seen in the story of Bareira and Moghiss. Imam Ahmad reported that the Prophet said: "If a slave-woman is enfranchised, she has the right to opt for divorce unless he had intercourse with her", i.e. after her enfranchisement, because in such instances, sexual intercourse evidences her acceptance to continue their matrimonial union. Though the Holy Prophet offered his personal mediation to bring together Bareira, the freed-woman, and Moghiss, her husband, she insisted on divorce and refused to compromise her right and liberty.

CHAPTER TWO

ISLAM AND JOINT RIGHTS

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Islam proclaimed as a fundamental principle that both man and woman had come from the same essence, that all humans are the sons of Adam, and that they were created from a single person; Allah said: "O Mankind! reverence your Guardian-Lord who created you from a single soul and created, of like nature, his mate, and from them twain scattered (like seeds) countless men and women. Reverence God, through whom ye demand your mutual rights and be careful towards the wombs that bore you. For God ever watches over you" (IV-1).

This fourth Chapter of the Holy Quran deals broadly with Islamic principles of marriage, family relationships and inheritance. It reminds us that all humanity are but one and mutual rights must be respected. Nobody is entitled to take for himself, his people or his nation special rights conflicting with those which Allah laid down. Because Allah is the Lord-Creator of all mankind, He knows what fits better to their human nature. We must therefore cling tightly to the Divine Law because it is clearly the sole guarantee to enforce the decencies of family life and the consistency of the Muslim society.

God conferred the basic rights on all people without any distinction and has been Ever-Watchful over their outer feelings as well as innermost instincts. The Holy Quran insists in many places on reminding us of our true origin: "And of God's signs is that He created for you helpmates from among yourselves that ye might find solace in them, and He ordained between you love and mercy" (XXX-21) and: "He created you from a single soul" (IV-1) and: "God has created for you mates of your own kind" (XVI-72).

Further to the same essence of Creation, there are the links of faith which dictate different obligations of mutual help, social as well as moral, between members of the same family, busband and wife, brothers, neighbours in the same building and area, or work-fellows. The Prophet said: "Believers in their mutual love, kindness and mercy are like one body; if one of its limbs complains, then the whole body shall call on it and remain awaken and feverish" (related by Imam Muslim).

Islam regards woman as spiritually equal to man. Islamic Law was laid down to apply to man and woman alike, and their reward for their good acts is similar. Man's rights and functions in society at large differ in accord with his mental disposition and physical constitution. This is reflected, for instance, as in a corporate partnership where some own the capital and have

equal rights in the management while others are given other rights to represent the company before third parties or sign on its behalf, etc. Woman's rights and position in society also differ with her changing status (daughter, sister, wife) and her specialized functions. Obligations shouldered by woman are undeniably different before than after her marriage. Yet she moves towards such obligations with a free choice since she knows they are inherent in the matrimonial union and she is well equipped to discharge them.

Muslims, however, showed various tendencies toward the problems of man's and woman's equality about which Islam adopted an attitude completely in line with their respective nature and constitution. Some factions have ignored these facts and called for absolute equality, while others fall prey to antiquated views which constitute so dangerous a threat of confusion and perplexity for Islamic thinkers and scholars who bear a prime commitment to apply God's justice, the absolute Justice, to all mankind. Allah said: "Now then, For that, call them (to the Faith) and stand steadfast as thou art commanded, Nor follow thou their vain desires, but say: I believe in the Book which God has sent down, and I am commanded to judge justly between you" (XLII-15). Some scholars had to keep pace with their environment and traditional mores which they sought to serve by interpreting Islamic texts on the basis of taking many precautions in order to hold back any contrary arguments. Others were driven by the writings of some missionaries and orientalists to a kind of excessive misinterpretation under the rule stating that "the jurisprudence of God should be present wherever a public interest exists". It is known, however, that this rule is only applicable in cases unspecified by Islamic texts, and this too should be done through the general principles cited by the Holy Quran and the Prophet's Traditions. A third group stood with hands crossed, just watching on the sidelines as if they were not directly involved, even though they were Sharia teachers in higher education institutes or intellectuals of great eminence.

This and other reasons led some activists - both men and women - to look for an imported non-Islamic solution. But these Western models they turned to have spared no effort to exploit woman and devastate family life. The Western legislations they call to imitate regarded woman as subordinate to man upon marriage. She loses her legal identity and economic independence as well as her right to exploit, give in grant, or dispose of her own property. She also has no right to receive the same pay as man for similar work.

But Islam not only protects her against all kinds of such injustice, but also makes marriage no reason to violate her rights. Thus, a married woman is established as independent, with her own name, property and economic

existence. She is entitled to receive equal pay with man as commanded by the Holy Quran: "To men is allotted what they earn, and to women what ehy earn" (IV-32).

Historically, the European ligislations of the present times were bequeathed by the Ancient Roman Law which gave a husband full authority and control over his wife and her property. Its derivation, the French Civil Code, was amended during the French Revolution to substitute the husband's overlordship with a commitment to protect his wife and stated, in turn, that any provisions in the marriage contract conflicting with the wife's obligation to obey her husband were void. In 1938, the said Code finally vested the family headship with the husband and limited his authority to the financial burden, family sustenance and other matters of general interest to parents and children, including prohibition of minors' marriage without prior consent of either the father or the mother or both (1). Other European and Western Legislations followed almost the same principles as the Italian Civil Code which restored the husband as head of the family empowered with full lordship over his wife and children, and so did the English law after revoking the husband's right to seclude his wife as a means of chastisement.

As a general rule in dealings between husband and wife in family life, Islam applies the Quranic principle: "And women shall have rights similar to the rights against them, according to what is equitable". The sole exception comes after: "But men have a degree (of advantage) over them" (II-228), for in certain matters woman is entitled to special protection. This degree implies no absolute superiority; it is rather limited to the husband's obligations towards his wife. Allah said: "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means" (IV-34).

According to Ibn Abbas (as related by Ibn Katheer in his interpretationof the Holy Quran) "This protection necessitates the wife's obedience only in matters which God enjoined that she should obey her husband." This leads to the conclusion that obedience in non-Islamic legislations took the shape of a general authority of a husband over his wife, which was reflected in usurping her economic independence. But in Islam, obedience is solely to God's Law of family life, since Islam views marriage as an institution aimed at the common good of the married couple. Obedience to the husband, as also to the father or the ruler, is restricted within the limits which the divine teachings have set for both parties. As a natural corollary, God taught us that obeying His Apostle should follow, in fulfilment of our submission and obedience to God: "He who the Apostle obeys God" (IV-80). Also when a

(1) Article No. 148 (French Code); No. 1308 (West German Code); No. 96 (Swiss Law); and No. 49 (Austrian Code).

wife obeys her husband, it is not obedience to the man himself, but to God's inviolable system of marriage and family life. "No obedience to any human being who is not himself bound to the Law of God."

Should men and women perceive the magnanimity of such principles of Islam, they would cease taking up arms against each other. They need, primarily, the self-conviction that common rights, in addition to some differences based on the physical constitution of both sexes, are but true and legitimate. A devoted Muslim deeply believes that the divine law governing the life of the individual, family and whole society is all-just. However, the vast military and intellectual invasion of the Islamic world, which left so many noxious consequences, including the far-reaching skepticism which shrouded the equitability of the Islamic family laws, must be accounted for.

1. Rights within the family system

Islam did not only consider marriage a common right for both man and woman, but also a natural path to purity, chastity and fulfilment of life on Earth. It was made an obligation for those able to shoulder its duties within the limits set by God. Fasting was prescribed as a means of protection against immorality and indecency and to teach youth perseverance and self-restraint.

Islam abolished all pagan requisites of marriage prevailing in the Age of Ignorance (Pre-Islamic Era), and a young woman was given the right to accept or reject her would-be husband. This necessitated that she take a look at him so that her choice was by her free-will. It also abolished the class system which prevented a man from marrying a woman on the grounds that only one of them belonged to the nobility or upper class. In accord with the principles of mankind's equality, God commanded that a poor ex-slave (Zaid) marry a noble woman(Zainab Bint Jahsh). When this marriage was looked down upon by Zainab and her brother, their reluctance was seen as a transgression, a disobedience of God's order. But when their marital life turned to be unhappy because of these deeply-rooted Jahiliya customs, Islam prescribed that their bond should be dissolved and the Prophet responded positively to their demand for divorce.

Islam also revoked the old Arab tradition that gave superior and noble prerogatives to the tribe of Quraish. No Arab from any other tribe before Islam was regarded as qualified to intermarry with a Quraishi woman. Islam's judgement was clearly explained in the Prophet's saying: "If a man, with whose piety and morals you are satisfied, approaches you (for marriage), then marry him; otherwise sedition and widespread corruption shall prevail on Earth" (Tirmizi).

Islam occupies a unique position among all ancient world legislations and

cultures in that it recognized the right of woman not to be given in marriage without her assent. Abu Hureira recounts: "I was with the Prophet when a man came to tell him that he had married a woman from "the Helpers" of Medina. The Prophet said: "Go back and take a look at her, for there should be something worthy in the eyes of the Helper's women". This meant that, before marriage, it is advisable that man and woman should take a look at each other. A direct implication is that nobody has the right to impose his particular choice on either the wife-to-be or husband-to-be.

The Prophet's saying: "No marriage without a guardian" touches on the conclusion of the marriage contract which should preferably be witnessed by the woman's father or guardian, but has nothing to do with her free choice. In Islam, it has been repeatedly stated, no marriage is valid unless the bride-to-be agreed to it according to the Prophet's saying: "No widow should be married without consulting her, and no virgin be married without her assent, and her assent is her silence". (Bukhari and Muslim). Another Hadith of the Prophet: "A woman who marries without her guardian's permission, her marriage is void", together with the aforementioned: "No marriage without a guardian" are both considered untrue sayings. They were neglected by the Hanafi school which confined the guardina's intervention to his role as a witness during the contract conclusion.

When Omar Ibn Al Khattab betrothed Atika Bint Zaid, she put the condition that he should not prevent her from attending the Mosque and should not beat her. Omar accepted her conditions. Also a widow, Umm Samra, chose, among all the men who wished to marry her, that man who positively responded to her condition that he should support her son until he was able to earn his own living.

The Muslim woman was reportedly entitled to voice her thoughts about her betrothed. This implies that she was given the right to look at him and be sure she admired him. The Prophet said: "When someone from among you seeks the hand of a woman in marriage, he should take a look at her so that he can be sure that she has attraction for him". (Abu Daoud). He judged as void the betrothal of Al Moghira bin Sho'ba and advised him: "Go first to look at her because this may develop a bond of compassion between both of you". This argument is of utmost necessity for a lasting marital life. Islamic texts insist on a common right of man and woman to look at each other whenever there is a promise for marriage. Caliph Omar said: "This is because woman also admires in man the same the latter admires in her". It was also reported that a Muslim widow, Al Khansa Bint Khadam, complained that her father married her, without her knowledge, to a man she had never seen before. The Prophet, to whom she disclosed that she disliked not to be consulted on a

private matter of her own, immediately replied that she had the option of accepting or rejecting her father's choice. Those who allege that only man has the right to look at the woman he intends to marry, have no legal grounds or social reason to substantiate their claims because all Islamic texts overtly or covertly ensure a similar right to women.

2. Rights and Obligations of the Marital Union

These can be summarized in the following points:

1. Man and woman are granted equal rights to express their approval before and during the marriage contract. Even after the ceremony, marriage can be held dissolved if the woman declares she did not assent to it. The couple are also equal as regards their betrothal rights and terms.
2. Piety, mercy and social integrity together form the key elements of marriage. The intention of Islam is that the marriage tie should be a charter of mutual honesty, truthfulness, loyalty and cooperation. Allah said: "Ye have gone in unto each other, and they have taken from you a solemn convenant" (IV-21).
3. The guardian - whether he be a father or grandfather - has no right to deny the daughter - woman - her own right to make a free choice of her husband and approve reasonable terms for her marriage. In case of any suspected compulsion, the guardianship should be referred to the judge.
4. Men and women were exhorted to choose their partners on the basis of religious devotion. Islam definitely declared that men and women have similar rights against each other: "And women shall have rights similar to the rights against them, according to what is equitable" (II-228). The sexes are on terms of equality in law which do not contradict with man's liability toprotect his wife, nor by the woman's right to leave her husband by securing divorce in certain matters of economic or physical differentiation, the verse stated that: "Men have a degree of advantage over them".
5. Obedience is not to man himself as such, but to the divine marital law set by God and binding to both husband and wife. Transgressors are held disloyal and their failure to comply with God's Law exposes them to punishment.
6. Marriage limitations and prohibitions apply equally to men and women, but Islam permitted conditional polygamy to man and provided for legal controls which preclude the misuse of this permission. Depriving woman of this right does not prejudice the principle of equality, because this is made impossible by numerous problems of legal affiliation, transfer of genital diseases and other moral harms whether perceived by mankind or not.

7. In normal life, Islam favours monogamy, but in extraordinary circumstances polygamy is permitted with complete justice due to the wife and children because a fundamental legal rule is: "There should be neither harming nor reciprocating harm".

8. Moral maintenance of honesty, purity and chastity is a duty incumbent on both husband and wife before and throughout their marital life.

We may conclude that Islam strictly prohibits the violation of the marriage-bed and all deviatory preludes leading to the evil of sex-anarchy. Islam does not regard adultery as a personal issue as depicted in the existing Eastern and Western legislations. It is, rather, considered a crime against the whole community and should be eschewed even if the wife, the husband, or the guardian should happen to favour it.

Among the preludes is the private meeting between man and woman either by reason of love, work or any other motivation. The Prophet said: "No woman should meet a man in private and no woman should travel alone unless she is accompanied by a relative of prohibited degree". Such deviations are now given misleading interpretations, but remain morally unjustified. These same findings were arrived at by a Western sociologist, Ogar Friedberg, who declares emphatically that "the claim to simplify sexual problems in order to display them in their primitive form implies a misleading trend since the claims are allegedly made to help young men and women build their own lives". In his book entitled "Man: the unknown", Dr. Alexis Carrel concludes with the remark that modern civilization befits not man as a human being because it proceeded without attempting to read his true nature: "We should be very miserable because we succumb to moral and intellectual denegeration and because we no more discern what is permitted and what is prohibited!"

3. Social Misdeeds and Joint Rights

All the world's countries and their respective jurists are mainly concerned with the criminal act since it draws on crimes committed against life or property. Prime interest was therefore given to the promulgation of Penal Codes which identify the acts and deeds classified as crimes and specify their revelant punishments. Governments, through their executive body, try to keep under full control and watch over the criminals and wrong-doers in order to protect the society against their danger. But each country takes a different attitude towards 'the social misdeed' defined as: "any deed or spoken violation of the main objectives aimed at by the society for organizing

social relations between men, whether individuals or groups". In some modern States, interest in social misdeeds did not go beyond recommendations and sermons, considering that the ethical rules are not binding to anyone.

Islam made it a prime task of the whole community to redress social misdeeds and went further to curse the nation which closes its eyes and connives with the general lawbreaking and moral degeneration. Allah said: "Curses were pronounced on those among the children of Israel who rejected Faith, by the tongue of David and of Jesus the son of Mary, because they disobeyed and persisted in excesses. Nor did they usually forbid one another the iniquities which they commited; Evil indeed were the deeds which they did". (V-81, 82). It is clearly stated that bidding not the right and forbidding not the wrong is considered by Islam outright disobedience of God and ghastly violation of the social values and limits of Allah.

Islam, on the other hand, made it a duty and responsibility towards God to speak out against evil and preach to the wicked. Standing firm against social evils and resisting the lust of committing wrong shall be a reason to avert the revenge of God in this world and His Penalty in the Hereafter. God referred to an incident in Jewish history which applies to all times to warn us against negative attitudes towards ethical and social degradation. God said: "Ask them about the town standing close by the sea. Behold! they transgressed in the matter of the Sabbath. For on the day of their Sabbath the fish did come to them openly holding up their heads. But on the day where they had no Sabbath, they came not. Thus did We make a trial of them for they were given to transgression, when some of them said: "Why do ye preach to a people whom God will destroy or visit with a terrible punishment? The preachers said: To discharge our duty to your Lord, and perchance they may fear Him. When they disregarded the warnings that had been given them, We rescued those who forbade evil. But We visited the wrong-doers with a grievous punishment because they were given to transgression. When, in their insolence, they transgressed all prohibitions, we said to them: "Be apes, despised and rejected" (VII, 163-166). Those people had asked God to assign a day per week during which they will remain free from any work except worshipping and praying. As a trial of their truthfulness and good will, God, among other activities, prohibited them from fishing on the Sabbath Day. As the practice began to be observed, the fish used to come up and gather very close to their shores with a sense of security. It was an irresistible temptation to those money-enslaved law-breakers who ignored their promise, desecrated the Sabbath's sanctity and easily caught the fish as in other days when fishing was open. Despite the protests and good advice of their holy men, they did not renounce their materialistic ends and, with their continued

transgression, the punishment of God came.

It must be noted here that the laws promulgated by God should not be left only to the protection of police measures and penal codes. It was made an individual as well as a collective duty and responsibility of the community to "bid the right and forbid the wrong". Men of piety should act strongly against any attempts to violate the divine law. With their positiveness there will be a chance that the warning may have effect.

The story also mentioned a third category of people who showed negativeness towards social misdeeds and breaking of the divine laws and commandments: "Some of them said why do ye preach to a people whom God will destroy or visit with a terrible punishment". It was, however, clearly stated in these verses that God rescued those who forbade evil" and "visited the wrong-doers with a grievous punishment". But what was the fate of the third category of people who did not breach the divine command but did not also protest over other's transgression, thus neglecting God's order "to bid the right and forbid the wrong". We may conclude that they were cursed, as it has been shown in many Quranic verses that the children of Israeil were' expelled from God's mercy because: "They disobeyed and persisted in excesses, not did they usually forbid one another the iniquities which they committed". In this same line, God exposed the negative attitudes of scholars who confine their call within the limits of "bidding the right" but remain indifferent to the wrong, nor did they strive hard against social defaults and moral degeneration. God said: "Why do not the Rabbis and doctors of law forbid them from their (habit of) uttering sinful words and eating things forbidden? Evil indeed are their works" (V-66).

Contemporary legislations proved unable to cope with widespread crime because they failed to explore the background of the social diseases and did not provide for due protection and immunization against the vices and weaknesses of man. Modern laws anticipate chastisement but do not combat misdeeds and defects which lay at the basis of social crimes. They close an eye to them because the law, it is alleged, should also vindicate privacy and personal freedom.

Islam - as an all-embracing religion - obliges its followers to adopt preventive measures against corruption, and makes it binding to all Muslims to stand in full determination against evil and misdeeds. Those who show no resistance to social defaults shall be subject to painful punishments.

Islam is also unique in its formulation of the principle of collective responsibility as simply embodied in "bidding the right and forbidding the wrong" and the particular solidarity of the whole society to pay the

blood-ransom, compensation and sustenance to any distressed family which happens to be hurt by social lapses and mischiefs. Finally, Islam has provided for penalties that apply to wrong-doers and their social evils which are normally considered by human-made laws as private ethical values of which the violation is left unpunished. This will be discussed in the next section.

4. Women's Responsibility for Redressing Social Misdeeds

Modern criminal laws do not take much interest in social misdeeds; that is, these are mostly left - without any form of punishment - to the care of sociologists' recommendations and sermons. It has therefore been inculcated in the minds of people that social misdeeds should be classified under the unbinding moral rules, or as a subgroup of personal freedom. Islam stands firm in stressing the importance of striving against social evils so that any related misdeed should have a proportionate punishment.

We have just mentioned the story of the Jewish people of the seaside town who contravened the established social laws and moral rules when they violated the Sabbath prohibitions. Their contumacious defiance of the law was the reason that the punishment of God came: "When in their insolence they transgressed all prohibitions, We said to them "Be ye as apes, despised and rejected" (VII-166).

But since Islam is not meant exclusively for one people, it abrogated the tradition of mass punishment and established the doctrine of personal responsibility: A man's sin must be borne by himself and the consequences cannot be transferred to someone else. Islam also revealed that this doctrine of righteousness had been embedded in all previous divine messages sent down to all God's Messengers: "Nay, is He not acquainted with what is in the Books of Moses; and of Abraham who fulfilled his engagements? Namely, that no bearer of burdens can bear the burden of another, that man can have nothing but what he strives for, that the fruit of his striving will soon come in sight" (LIII, 36-40). It was stated that punishment shall be against acts explicitly prohibited by a law in force and which was made public so that all people are aware of its corrective implications. God, it was insisted on, never inflicts His wrath on anyone until due warning is conveyed to him: "Who receiveth guidance, receiveth it for his own benefit; who goeth astray doeth so to his own loss; No bearer of burdens can bear the burden of another, nor would We visit with our wrath until We had sent an Apostle (to give warning)" (XVII-15).

This legal principle was not arrived at in any world legislations until after the French Revolution. Penal Codes were then in consensus on this same rule which was given the simplistic formulation in many modern constitutions

stating that: "No crime nor punishment except under a text of law". This statement was further elaborated: "No act is considered a crime, and no punishment may be inflicted therefore unless in accord with a text of law".

With the contagion of imitation, many Muslims of today have overlooked the wisdom contained in their Holy Book. They have turned their faces towards East and West to derive inspiration from their penal legislations which have judged ethical values as unbinding and ruled their violation outside of any penalty. In Western man-made criminal laws, for instance, adultery is not considered a crime as such. It may go unpunished unless it is committed under duress and violence, or with a married woman whose husband applies to the court so that she be chastised. If however, he keeps silent about her immoral act, legal suit shall not take place. Under such legislations, social evils flourish. Cast aside, they assume grave proportions and become a veritable danger to the entire social system.

In Islam, moral values cannot be separated from the practical life of Muslims. Social evils are classified as criminal acts with such severe punishments that perpetrators are, in some cases, sentenced to death. But Islam considers punishment as the last resort and gives much care to anti-crime measures to be inspired by spiritual and moral values in order to protect the community and heal social ailments. In Islamic law, should the wrongdoer show his truthful repentance before legal action proceeds against him, he shall be forgiven. God said: "Except for those who repent before they fall into your power; in that case, know that God is oft-forgiving, most merciful"(V-37). And also: "As to the thief, male or female, cut off his or her hand, a punishment by way of example, from God, for their crime, and God is Exalted in power. But if the thief repents after his crime, and amends his conduct, God turneth to him in forgiveness, for God is oft-forgiving, most merciful" (V-41, 42)

But Islam does not prescribe such punishments haphazardly. Before a ruler inflicts hand-cutting chastisement, he must manage to ensure a fair distribution of wealth and a dignified living for every citizen. It necessarily implies setting up the Islamic social system, including the compulsory collection of zakat (alms). The ruler is supposed to support the needy so that there will be no doubt that the thief, for instance, has no reasonable justification for his crime. It must be borne in mind that paying zakat is not only encouraged but also made a binding ordinance prescribed by Islamic Law. A Muslim who persistently refuses to pay it is an apostate. God ordered His Apostle: "Of their goods, take alms that those mightest purify and sanctify them" (IX-103). The system was thus applied and approved by all Muslims during the lifetime of the Prophet. But after his death, the first Caliph Abu Bakr had to stand firm in the face of apostasy and fight those who refused to

give the legal alms. He said in this connection: "By God, I shall not hesitate to kill those who separate between prayer and zakat, because zakat is (the poor's) right on their goods

Apart from the forcible execution of the zakat ordinance, Islamic jurisprudence prescribes other threatening penalties aimed at obliging the zakat debtor to pay it by ordinary means before using force. Imams Ahmad, Al Nasai and Abu Daoud have reported that the Prophet said: "From those who refuse to pay zakat, we are ordered to take it by force and to mutilate their camels as well. No portion of it shall return to Mohammad and his family". But if this saying is, in the opinion of some jurists, not well-authenticated, all agree that fighting and even killing those who persist in their refusal is no matter of difference.

Besides zakat, the rich have to donate charity voluntarily. It was reported by the Prince of Believers, Ali Bin Abi Taleb, that the Prophet said: "God has ordained in the wealth of rich Muslims a part which suffices the needs of poor Muslims. So, the want, hunger and nakedness of the poor shall be a result of the deeds of the wealthy for which they will undergo severe account and grievous punishment". It should be noted, however, that Islam make binding not only the financial rights, but also other social decencies where they emanated from God's prohibitions, such as drinking of liquor, exhibition of women's charms and any means leading to moral deviation, or from duties enjoined by God such as praying and fasting. Scholars even agree that those who refuse to pray and persist in denying prayer as a duty and pillar of Islam should be severely punished and killed as apostates. For those who accept God's injunction but are lazy in performing their duty, Imam Ibn Hanbal, with other figures representing different jurist schools like Ibn Omar (Maliki), Ib Khozaima (Shafei) and Ibn Hazm Al Andulusi, are all of the opinion that they should be killed even though they drop out only one of the five daily prayers. Other prominent jurists and scholars have said they must be thrown into prison until they repent and resume performing their prayers.

It should be borne in mind that the binding element which characterizes the Islamic law is a result of its rightful conception of crime and punishment. Because, first, it was sent down by God who is All-Knowing about what best fits His creation and, second, it does not make any separation between criminal complexes and moral rules which prescribe punishment in this world and the Hereafter. This separation, it should be pointed out, became a main feature of modern Western legislations where criminals and moral offenders are seen as individual victims of corruption who should be treated kindly. God has denounced a similar attitude taken by the children of Israel: "Then is it only a part of the Book that ye believe in, and do ye reject the rest? But

what is the reward for those among you who behave like this but disgrace in this life, and on the Day of Judgement, they shall be consigned to the most grievous penalty. For God is not unmindful of what ye do" (II-85).

4.1 The Specific Role of Muslim Women

God ordered all followers of Islam to form but one Umma, which shall have the main characteristics and outlines of an integral Nation. Its supremacy above all other nations lies in the uniqueness of its transcendent message, based on its indefatigable call to mankind to enter the fold of Islam and to cast off discord, enmity, hatred and dissention. God commanded: "O ye who believe' Fear God as He should be feared and die not except in a state of Islam. And hold fast all together by the rope which God (stretches out for you) and be not divided among yourselves. And remember with gratitude God's favour on you, for ye were enemies and He joined your hearts in love, so that by His Grace, ye became brethren, And ye were on the brink of the pit of fire, and He saved you from it. Thus doth God make His signs clear to you, that ye may be guided. Let there arise out of you a band of people inviting to all that is good, enjoining what is right and forbidding what is wrong: They are the ones to attain felicity Be not like those who are divided amongst themselves and fall into disputations after receiving clear sings: for them is a dreadful penalty" (II: 102-105).

So Islam orders all believers to strictly follow the revelation of God lest they should die in shameful disbelief in the Book or part of it. This is true when people embrace man-made life systems and social theories propagated by ungodly thinkers. Immediately before these verses, which urge devout believers to hold fast to the Holy Book and the Prophet's Traditions - metaphorized as an unbreakable rope of rescue,. God prescribed that preventive measures should be anticipated against deviatory innovations and false ideas: "O ye who believe! If ye listen to a faction among the people of the Book, they would indeed render you apostates after ye have believed. And how would ye deny faith while unto you are rehearsed the signs of God, and among you lives the Apostle! Whoever firmly holds to God will be shown a way that is straight" (III-100, 101).

Islam also prohibits its followers from adopting earthly systems and destructive schools of thought which promise to be the rescuer of humanity and the saviour which guarantees bread and butter through a fair distribution of wealth. We are ordered to act as callers to the divine good and the unpolluted justice, to correct social vices using our best means, and to take preventive measures against social evils. This is epitomized in the Islamic command to "bid the right and forbid the wrong" which is at the basis of the strength, self-confidence and supremacy bestowed on Islam's Umma in all old

nations. God said: "Ye are the best of peoples, evolved for mankind, enjoining what is right, forbidding what is wrong and believing in God" (III:110). So all Godly texts and commands have been commonly addressed to both men and women. Islam abrogated all deeply-rooted pagan claims of discrimination between the sexes allotting all prerogatives to man and non-entity to woman. It proclaimed that both were created from the same essence, are equal before the divine law and entitled to similar rights. God said: "The Believers, men and women, are protectors, one of another; they enjoin what is just, and forbid what is evil; they observe regular prayers" (IX:71). They are regarded as spiritually and intellectually equal. The Prophet said: "Women are the twin-halves of men" and the Islamic Umma, which was built upon these fundamentals, was dubbed as "the best of peoples, evolved for mankind". Marvellous examples were set in the practice of Islamic tenets because they were in line with human nature and perfectly befitting the position of woman in the society, whether she be mother, wife, sister or daughter, if she adheres to the Islamic texts teaching her how to exercise her rights. For instance, the limits of woman's duty to "enjoin the right and forbid the wrong" vary from those of man in the discharge of his own duty. So, man can rebel and fight against an oppressive ruler. This is not a woman's duty. But she was ordered to fight in case the enemies of Islam invade Muslim lands and street or house-to-house fighting is conducted against innocent people. She is even asked to join the combatants without taking permission from her husband. Striving by all means permissible to woman in order to eliminate corruption was commanded by the Prophet: "Whosoever of you sees an evil action, let him change it with his hand; and if he is unable to do so, then with his tongue; and if he is unable to do so, then with his heart, and that is the poorest of faith" (related by Muslim).

Far from being a means of acquiring a futile reputation or worldly gain, to "enjoin the right and forbid the wrong" should be in response to God's orders as equally directed to all followers of Islam. Woman, in social life, is not alienated from other members of her family, but she is fully aware that there exists a head and manager of family affairs. Her duty to "enjoin the right and forbid the wrong" shall be restricted within the limits of her social life and female disposition. Islam therefore imposed some restrictions closely related either to her moral obligation towards her husband, father and children, or to honour, sanctities and morals.

Realities of practical life reveal that in the way prescribed for woman to exercise her social functions, Islam has made due allowance for the innate human nature. Even in most modern States, woman's right to travel abroad, make war or live far away from family home is not absolute. It is, in many aspects, related to and restricted by moral rights of family ties represented by

her father, husband or others. Such constraints were seldom regarded as exceptional problems because the accomplishment of woman's primary functions had, in practice, rarely collided with them. The collections of the Prophet's sayings narrate that "a woman came to the Holy Prophet complaining that her father had married her to his nephew against her will. He told her that she was free to accept or reject her father's choice. At this she exclaimed: "Messenger of Allah! I accept my father's choice. I just wanted to make it known to other women that their fathers do not have the final say in this matter" (related by Imam Ahmad, Nasai, and Ibn Maja). However, it is sad to note that Arabic educational textbooks have overlooked many such edifying stories and, instead, focussed on and publicized so-called acts of heroism by non-Muslim women which do not comply with Islamic ethics.

In another instance, it is known that neither the Holy Quran nor the Prophet's Traditions have set a limit on the woman's dowry. When the second Caliph Omar once planned to impose a reduction of dowries, a woman opposed him at the Mosque and recited the Quranic verse: "Even if you have given one of the women a whole treasure for dower, take not back the least bit of it. Would ye take it by slander and a manifest wrong?" (IV-20). Hearing this, Caliph Omar said: "The woman was correct and the Caliph mistaken".

This is how Muslim women assumed an important role in redressing social faults and vices. But if such functions were commontly practised in the framework of Muslim political and social life, they were not accomplished in the same manner as in our present times, because the object of any work in Islam's rationale is: "Getting nearer to God and seeking His pleasure". A woman, accordingly, cannot perform good political, military and social work while ignoring God's orders concerning other aspects of the Muslim's day-to-day duties and transactions. To describe woman's work as a political or social right she is entitled to, should be initially tied and coupled with her full compliance with the essence of Islam's dogmas.

5. Right to Learn and Work

At a time when the whole world was submerged in complete ignorance, Islam came to stress the importance of knowledge for mankind. God said: "Are those equal, those who know and those who do not know?" (XXXIX: 9), and: "But say: O my Lord! advance me in knowledge" (XX: 114). Imam Muslim reported that the Prophet said: "He who takes a path to where he can acquire knowledge, God shall ease for him a path to the Gardens of Eternity". A most distinctive mark of Islam is that it enjoined the acquisition of knowledge equally on men and women by the Prophet's order: "The acquisition of knowledge is incumbent upon every Muslim man and

every Muslim woman" (related by Ibn Maja). Because Islam makes no differentiation between either of the two sexes, it considers them both intellectually equal. As related by the Five Imams, the Prophet said: "Women are the twin-halves of men", and Imam Bukhari reported that a group of women approached the Prophet complaining that the reporters of his sayings and deeds were only men-companions. They asked to be assigned a certain day of the week to receive from the Prophet the knowledge he was taucght by God. He approved, asked them to gather on this or that day, and taught them what he was taught by God.

What was said above is obviously enough to refute allegations - mostly propagated by Muslim activists - that Islam denied woman education on the grounds that the result is the spread of corruption, added to the fact that woman has usually no need for work. Such ideas are an impact of the modern Jahiliya taking root in tribal traditions and non-Islamic thinking which regarded woman as "an organ of the Devil". The reformist Martin Luther had declared: "Education is harmful to women". Nobody knows how such mischievous ideascan be inculcated and called toby a true believer in God and Islam:"It is God who has sent His Apostle with guidance and the Religion of truth, that he may proclaim it over all religion, even though the pagans may detest it" (LXI: 9). Woman, too, needs a doctor, a teacher, a lawyer and other professionals during the exercise of her social life. She is therefore required to learn different branches of knowledge so that she may effectively contribute to the uplift of women in her society at all levels.

Women of Arabian tribes, during the lifetime of the Prophet, used to delegate some of them to learn Islam at its purest source of highest wisdom, then teach that which they had learned to other women. An example was Joma Bint Yazid who was reported by Imam Muslim as addressing the Prophet at the end of her mission with these words: "I am the women's delegate to you, Messenger of Allah. You were sent to all men and women, and we believe in your holy message which teaches us to keep within the limits of Allah, to manage the homes of our husbands and bring up our children" and the Prophet replied: "Has anyone of you ever heard a woman's clearer statement of faith and devotion than this one". Needless to state that a large group of womenwere reputable in narrating the Prophet's sayings and reporting them to other men and woman.

It is obviously unfair to associate woman's education with the current widespread corruption in Muslim societies, because an illiterate woman can be more easily seduced, misguided or impressed on. It is therefore necessary to differentiate between woman's acquisition of knowledge and the misuse of her right to be educated. Similarly, it is wrong to regard all woman's work as

uncongenial and unnatural, or judge it exclusively from a narrow outlook centered on the indecent and peculiar conduct of some women in public stores and office jobs. The right to work requires wider understanding because it implies an equal status of both sexes, a matter which Islam insists on. God said: "And their Lord hath accepted of them, and answered them: "Never will I suffer to be lost the work of any of you, be he male or female, ye are members, one of another" (III: 195).

The history of the Muslim woman, during the early days of Islam, reveals that she had to perform the same duties as man. She took the oath of allegiance (as cited in Sura LX: 12), served the warriors on the battlefields and cured the wounded fighters. "But the wisdom of God prescribed that the strenuous outdoor work should be allotted to man, and the administration of household duties and children's training to woman so that the work of each is best done in a spirit of harmony and devotion" (2).

However, Islamic history bears witness that woman had, in all periods, engaged in so many kinds of labour without being opposed as she appears to be in our present times. Objections are likely to continue as long as depravity and moral degradation go side-by-side with woman's work outside her home. Again, we ought to markedly make the distinction between her legitimate right to work whenever need presses and the free-mingling and immoralities exhibited by deviant women in certain jobs. There exists no Islamic text whatsoever to prohibit woman's work and participation in social reconstruction in full moral dignity and purity. Woman, as proclaimed by Islam, is the twin-half of man, and was particularly capable of practising and teaching jurisprudence (Fikh) and other theological sciences in addition to filling may occupations which better fit her physical constitution. Many excellent examples can be cited in this connection: Zainab bint Abdul Rahman Al Jurjani was a good jurist and narrator of the Prophet's traditions who used to report on the authority of the great companions until she died in Nissapur in 615 A.H. Zainab Bint Makki Ali Harrani was a devout worshipper well-versed in Islamic sciences and her home was constantly crowded with students and followers until she died in 668 A.H. Zainab Bint Mohamad Al Ghazzi was reputed for her devotion and piety. All her life she was occupied with religious knowledge and poetry where she outran her father and brother until she died in 698 A.H. and was buried in Damascus. (3)

Imams Bukhari and Muslim reported that the Prophet said: "Best among women are the women of Ansar (helpers from Medina): their pudency and

(2) "Woman's rights in Islam", Mohamad Rashid Reda - p. 44.

(3) Omar Kamala: "Woman in the Arab & Islamic World" Vol. 2, p.

modesty did not prevent them from learning and teaching Islamic doctrine". Pudency, it is obvious, refers to some situations as sexual intercourse, menstruation and bathing, where religious views needed to be clarified. But those women were confident that shyness should be put aside insofar as knowledge and scientific matters are concerned.

Other fields for woman's outdoor work were also available in the early days of Islam. We know about the woman who used to sell milk during the reign of Caliph Omar, and we have also read about a certain Umm Al Saeb, the perfume seller during the lifetime of the Prophet. Islam, it is true, did not prohibit woman from working and earning money. But it categorically forbade her from using work as a means of moral deviation and a way to destroy the marital life and weaken the family ties. The Prophet encouraged Muslim women to preoccupy themselves with lawful work: "One of the best devout Muslim women is she who works on a spindle in her home". Omar Telmessani (4) said in a commentary: "This is full recognition of woman's right to undertake useful work, and evidence that Islam did not seclude her behind the doors of her guardian's home. It is natural too, that a woman, even the wealthiest, would never agree to stay idle or inactive. A Muslim woman would be proud to give regular zakat and voluntary charity from the income of her own work, not from her husband's property, because Islam has never held her intellectually or spiritually deficient"

A Muslim woman was not doomed to be a crippled member in the society, with the sole task of welcoming her husband at his arrival and bidding him farewell at his departure. Stories reported from the early days of Islam demonstrated that women, immunized by their deep faith and chastity, had performed similar work as men. A woman-merchant from the Ansar recounts: "I met the Prophet during the lesser pilgrimage and asked him: O Messenger of God, I am a woman who sells and buys, so can I barter my goods against others of more value? He replied: Don't do that. If you intend to buy you should give a fair barter; either your offer is accepted or rejected" (related by Ahmad). The Muslim society did not object to woman's work in many fields. Needless to say, the Prophet did not deny woman's active participation in social life and, in some instances, beside man, as in military operations aimed at defending the religion of Islam.

6. Suspicions surrounding the right to work

In medieval Europe, the march of humanity experienced major setbacks when the Christian Church sought to impose its authority through constraints and checks on people's conduct and daily life. The Fathers of Christendom

(4) Omar Telmessani: "Shahid Al Masjid, Omar Bin Al Khattab" p. 215.

described woman as "the arms of the Devil" and "daughter of falsehood".

The revelation of the Holy Quran was God's Mercy, which by a masterly stroke, removed these pagan ideas and denounced all mischievous doctrines. God said: "But My mercy extendeth to all things. That mercy I shall ordain for those who do right, and practise regular charity, and those who believe in Our signs: those who follow the Apostle, the unlettered Prophet, whom they find mentioned in their own Scriptures, in the Law and the Gospel; for he commands them what is just and forbids them what is evil. He allows them as lawful what is good and pure, and prohibits them from what is bad and impure. He releases them from their heavy burdens" (VII: 156, 157). God also said: "And their Lord hath accepted of them, and answered them: Never will I suffer to be lost the work of any of you, be he male or female; ye are members, one of another: those who have left their homes, or been driven out therefrom, or suffered harm in My cause, or fought or been slain, verily, I will blot out from them their iniquities, and admit them into gardens with rivers flowing beneath, a reward from the presence of God, and from His Presence is the best of rewards" (III-195).

Thus, in Islam, woman was held equal to man in their essence, their religious duties and the reward for their good acts. To come out from paganism to Islam, women had to take their own oath of allegiance to the Prophet separately from men, because in their deeds and obligations, women are not subordinate to man. In those early days of Islam, woman was permitted to leave her home to perform her prayers at the mosque and undertake intellectual and manual work befitting her natural disposition. Women-companions, similar to men, reported the Prophet's traditions bearing on all aspects of Islamic doctrines. The number of sayings (Hadiths) related by Aisha exceeded two thousand. Ibn Saad, in his "Categories", listed the names and heroic acts of six hundred women who participated as Mujahids in the wars of the Prophet. Some women also reported the sayings and good examples of companions and Holy men other than the Prophet. Their number attained ninety-four. Al Nawawi's "index of names" included many women who used to teach religious fundamentals and other disciplines to other women, and the French orientalist Perron has described Sukaina Bint Al Hussain as "A brilliant lady of her times, with most transcendent qualities and morals. Her house was a destination for seekers of knowledge and pure literature"(5).

During the period of decline and deviation from Islam, Muslim woman was alienated and rather isolated from social life. One cannot deny that Muslim rulers and governments who, in some instances, ruled in the name of

(5) Abdul Motaal Al Gabri "Woman in the Islamic Perspective" p. 61.

the Islamic Caliphate, have ignorantly ended by confusing the right with the wrong or have intentionally furthered the nefarious schemes of Islam's enemies. These were enabled to largely exploit women's degraded position within the Muslim societies and endeavoured to render her a means of covert destruction of Islamic values and ethics.

During the derogatory caliphate, woman was stripped of her social rights, especially education, and was looked upon as a non-entity. Westerners who found this period "an age of harems and women slaves", had mischieviously attributed these malpractices to the Religion of Islam. They tried in turn to inculcate the same baseless ideas in the minds of those Muslims who went to Europe for higher education. The modern educated people saw in their adherence to the European life-style and their complete subordination to imported thoughts and habits abhored by Islam, a label of progress and civilization.

British and French occupation policies were major factors that contributed to the propagation of corrupt conceptions about Islam. The third French military governor of Egypt, General Menou, married a young woman from the town of Rasheed and taught her the European habits, then managed to introduce her to the private and public women's gatherings as a living example of Europe's civilized traditions. The educational scholarships left most of the Arab students completely enthralled by Europe. Over many student generations, they returned from European universities incapable of thinking for themselves and acting as real messengers of Western civilization which - according to Alexis Carrel - "does not differentiate between what is permitted and what is prohibited". In consequence, Shaykh Rifa'a Al Tahtawi, an Egyptian scholar, had been thoroughly brain-washed on his return from Paris. In his descriptive work: "Extracting Gold in Summarizing Paris" he concludes that unveiling the woman's charms does not affect her purity and chastity, because even veiled women can be corrupt and vice-versa.

Needless to say, corruption is not a common rule, but an exception which can never justify the exhibition of women's bodily charms. The Prophet stated that unveiled women create far more evil and corruption among young men than it is thought: "Eyes commit adultery through one's gaze". An Egyptian Historian, Al Gabarti, described from the standpoint of Islamic values the effects of French occupants' degeneration in these words: "Women unveiled their faces and went astray from decency and pudency because they had seen French women going freely in the streets wearing coloured dresses and silky scarves, covering their shoulders with loose, decorated cloth and demanding to ride on horses and donkeys, always laughing loudly and

impudently joking with coachmen and mean people. They were admired and imitated by vulgar women..."

6.1 Cultural invasion and woman's work

Again, it was Islam that took woman out of the deep darkness of Jahiliya and ignorance which prevailed in the non-Islamic world during "the Middle Ages". While "the Middle Ages" were intended to term a certain period of Europe's history, some thinkers deliberately tried to draw it on the Islamic Era of the Prophet and the most-guided companions. However, when Muslims grew farther from Islamic teachings, they appeared to be moving towards an Age of modern Jahiliya, mixing up Islamic principles with pre-Islamic pagan traditions.

Through the Muslim's steep decline, the West was able to exploit the so-called "Age of Harems" to smuggle the Muslim woman into the rough course of socio-economic life with and without reason. She came to see her role of housewife unattractive and endeavoured to find any kind of work, even though it was improper to her specialized disposition or destructive of her home and family life. In his book: "The Arab World Today", Moreau Berger outlined the Western objectives masked behind calling Muslim women to emancipate: "The growth of their position and participation in socio-economic life shall constitute significant alterations not only within family life, but also throughout the whole Islamic society. If they are allowed to freely display their latent potentials, ambitious women will concretize radical changes which will shake the underpinnings of the Islamic society in its entirety and forever". The pre-planned radical change, it is understood, will be the mass conversion from Islam and the prevalence of Western socio-economic doctrines.

6.2 The Age of Harems Welcomed in Europe

At a time when evil schemes are engineered to convert Muslim and Arab families from Islamic traditions and principles, one can find that French women earnestly long to return to their role of housewife and mother. In an opinion poll conducted by the Paris-based magazine "MARIE" among 1.5 million women, 90% of them answered "yes" to the necessity of marriage and keeping home which should be considered the wife's first concern.(6)

A Danish sociologist bitterly criticized the Western attitude towards woman's cause, declaring that: "Most researchers on women's affairs in the West are either seasonal radicalists or masonic Jews who seek to exploit

(6) Mahmoud Al Gawhari "The Muslim Sister", p. 113.

modern women's attraction for new perfumes and dress models, their self-competition in men's careers or their poor constitution as human beings in order to mix up all conflicting conceptions and reverse the meaning of sin and immorality".

In similar opinion polls in some other Western countries, 69% of respondents in West Germany and 65% in the USA expressed their desire to stay at home after marriage (7). Most important is that such results should prompt a reconsideration of false thoughts propagated by Westernized people. Duplicitousthinkers who succumbed to the Western civilization had created incorrect reactions which do not differentiate between woman's work and her exposure to deviatory means therein. As a result the fundamentalist scholars legally prohibited woman's work on the grounds of the corruption and indecent manners it espoused.

7. Woman's Work Between Prohibitions and Prejudices

Woman's work may be her own or her family's right and sometimes a duty she must fulfil if she has no bread-winner. Islam did not prohibit women from working outside their homes if their services were genuinely required. Any work which may be a cause of prejudice to herself, her family life and her society is prohibited. According to the Prophet's saying, it will be unrealistic to vest woman with the leadership of her nation in the presence of a suitable and competent man. Her emotional character in addition to the moral safeguards will be an impediment to the pursuance of the leadership's duties. When the Prophet was informed that the people of Persia had inaugurated the daughter of Kosroes as their queen, he said: "A people shall not be successful if they consign their leadership to a woman". (Bukhari).

Some Muslim scholars thought that the Prophet's saying explicitly assigned males to shoulder leadership responsibilities. Other jurists permitted women's working in all fields where she can compete with man, except in State leadership and justiceship.

Imam Abu Hanifa went further to permit woman to assume the judiciary in property cases at preliminary, commercial and civil status courts, while Imam Al Tabari did not object to assigning her also at criminal courts. Imam Ibn Hazm reaffirmed that Islam did not forbid woman from assuming all judiciary duties whensoever "there is no prohibitive text", and cited the example of Caliph Omer Ibn Al Khattab who appointed a woman-judge at the commercial market. He interpreted the Prophet's statement as exclusively related to the Caliphate or State Leadership and referred to the Prophet's saying: "Woman is trustee of her husband's property and she is responsible

(7) op. cit.

for what she is entrusted with". (related by Ibn Hazm, Part 1/429) Forbidding women from State and Ministry Leadership is a common practice in so many countries, even in the non-Muslim world. Reasons are many: she can be urgently summoned, late at night, to attend sensitive Cabinet sessions and take crucial decisions to the neglect of her husband and children. Bilateral meetings with alien men may be held behind closed doors at the risk of destroying her family life. It is therefore not strange that Islam has relieved woman, from the unilateral responsibility of declaring a war, concluding treaties, being Caliph of Muslims or other such activities which may not fit her physical constitution or may conflict with her family duties and emotional framework. Muslims should wholeheartedly comply with the Prophet's directives, even if they are disagreeable to all people of the Earth, because Islam's teachings are visibly in line with man's basic nature. They are to preserve woman's chastity, continence, virtue and decency.

Woman's work, as a means, should not be an end, as such, to induce her to revolt against family life and become a puppet of exhibitionism and corruption.

In the conference on criminology held in London in 1970, the representatives of 45 participant countries recommended that woman should return to her home life and motherly duties: "If clubs, schools and kindergartens contribute to raising children's educational standards, it remains that the mother, as the backbone of the family system, is the most positive factor entailing their happy or upset life" they proclaimed.

8. Islamic Safeguards

We can find among Muslim scholars many who confined the task of woman to the domestic sector, deriving their view from the Prophet's saying: "For a Muslim woman, managing her household is tantamount to making Jihad". (related by Al Bazzar on the authority of Anas; the meaning was related by Muslim in his "True Hadiths"). They considered that protection through prohibition of woman's work constitutes the best control. This can be true whenever the whole environment is corrupt, but should not be thought of as a divine injuction nor did it encompass all kinds of work. Islamic texts enjoining her to stay at home are indicative of the best for her nature but did not explicitly forbid or prevent her from work. Woman's right to work outside her home is an incontrovertible fact. It should, however, be undertaken under such controls as:

1. Mutual understanding and agreement between the married couple as the nature of the work may cause prejudice to the status and initial right of either of them.

2. Woman's work should not be detrimental to the husband's or children's interests. If the husband agrees to concede his interests with a view to gaining his wife's pleasure or earnings, priority should be given to the children's interests.

3. Moral and ethical values, including controls regarding work environment and decent manners as enjoined by God, should be observed by both man and woman. Imam Bukhari reported that the Prophet said: "No alien man and woman should meet alone privately". Such privacy draws on the presence of man with a woman of a prohibited degree alone behind closed doors. It could be the door of an office, a room in a house, or even a car in a deserted place. The grounds to this prohibition is that Islam considers the means which lead to what is forbidden as themselves prohibited. Imams Bukhari and Muslim reported that the Prophet said: "Eyes commit adultery by gazing to what is prohibited" and also said: "That which is lawful is plain and that which is unlawful is plain, and between the two of them are doubtful matters about which not many people know. Thus he who avoids doubtful matters clears himself in regard to his religion and his honour, but he who falls into doubtful matters falls into that which is unlawful".

8.1 Liberty between what is permitted and what is prohibited

Apart from keeping herself away from privacy and sedition, the Muslim working woman should hold fast to virtue and decency in her manners, dress, and appearance. But if such hazards were far less harmful in the past, they are now alarming, since diabolical means of corruption and moral degradation are widely devised and controlled by International Zionism. Devilish dress designs are given well-polished labels and promoted by powerful publicity houses and highly-skilled specialists in order to establish the freedom of illicit sex and sensual indulgence as the new idols of the modern times.

It is so regretable that many young women, misguided by the official mass media and the state information organs have unthoughtfully rendered themselves missionaries of corruption. In Egypt, for instance, at one time, it was not strange to note that the organized social destruction and submission to false delectations led some Ulema's wives or daughters to wear the enticing modes labelled mini-jupe, micro-jupe or hot pants. Five daughters of an eminent scholar were photographed in bathing dress on European seashores where they had been on an artistic tour with a dance band. Asked about Islam's viewpoint on such behavior, their father said that he had put the same question to a prominent Shaykh of Al-Azhar (who was thereafter appointed Minister in the first military government in Egypt) who expressed no

objection, as long as they kept the limits. So, an inferiority complex, coming to the surface, had hurled some Muslims towards impiety and shamelessness. However, one can find that "some saner elements in Europe and other parts of the world began to spurn these humiliations and devilish debaucheries", as revealed by Barbara Cartland in her "Secrets of sex appeal". In an opinion poll, 75% of respondents objected to all nude, sexual and hot kissing scenes in Indian movies. A famous Indian actress said she would die of shame if she had, someday, to be kissed in a film shot. For those who claim that such immoralities are a personal responsibility which must be viewed under individual freedom., Dr. Alexis Carrel in his "Man the unknown" had to say: "Moral sense is almost completely ignored by modern society. We have in fact suppressed its manifestations. All are imbued with irresponsibility. Those who discern good and evil are looked upon as backward".

This unrestricted individual freedom has assumed such disgusting proportions that, in many non-Islamic countries, public streets became the favourite centres of romantic ventures. In the city of Rotterdam, Dutch women had in December 1970 to disperse hippy groups engaged in animalism and free sexual gratification at the doors of their homes by flooding them with boiling water (8).

8.2 Woman's work and the unemployment problem

If Islam has not explicitly forbidden woman's work, it has restricted this right in the interest of the working woman, her husband, family and society, because Islam encourages family honour and respectability. Woman should hold on to her honour and dignity by distancing herself from such prohibitions as privacy with alien men. Islam, it should be emphasized, forbids woman from leaving her home for outdoor work if this contradicts with her children's or family's interests, or leads to her corruption and exploitation in exhibitionism and consumerism, or causes the spread of unemployment among men who are charged with the duties of supporting the family and providing wife and children with all their requirements.

Long before international and Arab Conferences were held to decide on such issues, late Supreme Guide Shahid Hassan Al Banna wrote: "Unless there is a genuine social need for woman to do work other than her natural field of activity in her home and family sector, it is her duty to comply with all conditions laid down by Islam to protect man from woman's sedition and woman from man's sedition. Her work should be where her services are most required, but not as a general system whereby every woman shall have the right to work, especially in the present "mechanical" age which witnesses the

(8) Daily "Akhbar Al-Yom", Egypt, issue of 26.12.1970.

severe problems of male unemployment in so many countries. It should, therefore, be preferable to recruit a married man who supports a family than an unmarried woman." Islam has ensured for officials (Governors and Sub-State Rulers) the basic necessities of life. Imam Ahmad reported that the Prophet said: "If a person who is charged with work for the State has no dwelling place, he shall have one; if he has no wife, he shall have one; if he has no servant, he shall have one; if he has no animal (vehicle), he shall have one; if he acquires more, he is a thief". Such guarantees can therefore be obtained in return for any work done through an occupation from which society shall benefit. To take more than the ensured basic necessities is regarded as theft. An essential rule which should be observed by the recruitment departments of Islamic governments is that priority should be given to married men in civil service employment in order to ensure a decent life for the Muslim family.

It should also be noted that Islam does not prevent woman from working outside her home on the ground of a prejudiced claim that woman's work is prohibited as such. It is because her work entails latent harms which will eventually endanger herself,her children and society. This well-balanced logic has been grasped by Muslim woman throughout history in addition to some thoughtful non-Muslim women. Dr. Anna Freud, claiming woman's return to the home duties, had to say: "the child's upbringing in orphanages and nursing homes creates emotional troubles, psychosis and eccentricities which no psychotherapy can compensate for" (9). In his commentary, Shahid Syed Qutb wrote: "The nursing experience first proves that a child, in his first two years, by his true malleable nature, requires to have independently his own parents, especially to be independent with a mother whom no other child shares with him. After that age, a child needs to feel that he has a distinct family, a father and a mother to whom he belongs. The first requisite is difficult to realize in the nursing-home, while the second is impossible outside the family system. Away from these two requisites, however, a child grows up as a deviate psychic of any kind. Stripping a child of his basic need to live in a family, under the care of his mother, constitutes a catastrophe in his life. One has to wonder, therefore, why the new errant Age of Jahiliya should wish to plague the life of all children with miseries, then claim that the malpractices are meant to achieve progress, liberation and civilization!" (10).

A draft bill to amend the American Constitution was presented to the US Congress on 22.3.1972 providing for woman's perfect equality with man. Its passing was made difficult by the lack of a majority consent among the American States. Contrary to all expectations, a large number of women's,

(9) Dr. Anna Freud: "Familyless Children" p. 67

(10) Shahid Syed Qutb: "In the shade of the Quran" p. 343.

organizations opposed the draft bill on the following grounds:

1. Woman shall be obliged to work and therefore unable to confine her activity to household management whenever she wishes to.
2. Equality revokes a wife's right to receive alimony from her husband who will have, in turn, a right to alimony upon divorce.
3. Equality abrogates all privileges granted to women in State prisons.
4. Equality entails women's obligatory conscription for military service.

The US Supreme Court dismissed a law suit filed by an activist organization to permit male enrolment in a women's college on the grounds of perfect equality and State councils were authorized to open specialized women institutes. The court also judged in favour of the State of Michigan's right to forbid women from working as waitresses in night clubs and bars. In Hungary, where socialist women are leading their own independent economic and sexual life, the government had offered a fully-paid nursing leave for those women who are willing to marry and stay at home for childrearing. According to the latest statistics, this effort towards a balanced birth rate in the country has failed, a matter which leaves such societies subject to extinction. A German Muslim writer, Fatima Hereen, epitomized the life in Western societies in comparison with the clean and pious way of life in Islam, saying:

"Over the last decade, Western youth, allegedly the forerunners of modernism, used to live a life of common debauchery, shared sex, and babies out of wedlock. However, young women's dreams still revolve around the wedding ring and family life in a tidy home where they shall bear and nurse their children, instead of living as a mistress or concubine of an irresponsible man. The modern life was unable to root out what God implanted in the true malleable nature of mankind. The family risks dominating marital life in the West are unavailable in Muslim family life because Islam is not a mere creed in accord with the Western conception, but complete submission to God's will and commands. In Islam, family life is based upon concord, affection, self-abnegation and mutual confidence under the umbrella of parents, children, sisters, brothers, uncles, aunts and all relatives who grant their protection for all family members in recognition of the fact of man's vicegerency on Earth. Muslims are honestly aware of their role and behaviour of vicegerent in this world and the responsibility which they will be accounted for on the Day of Judgement. They are convinced of their duties and obligations as laid down by Islam with the aim "to seek the pleasure of Allah", which they consider the unique object for their existence in this life" (11)

(11) Fatima Hereen & Aisha Lemu "Woman in Islam", Islamic Council of Europe, p. 33.

CHAPTER THREE

WOMAN'S POLITICAL RIGHTS

1. Woman: Between Islam & Worldly Systems

A historical survey of the legal and social status of woman in Islam has revealed how this Religion-cum-life system has granted her an independent entity and equal rights befitting her specific fields of action and her role in society. If we touch on the main points, we may conclude that:

1.1 Before Islam, woman was a chattel that was donated, bequeathed and trafficked in. "This tradition prevailed throughout the European continent until the 11th century A.D. Islam, as the last of God's divine revelation has shown that woman deserves respect and dignity because she was created from the same origin as man. In a saying related by the five Imams, the Prophet said: "Women are the twin-halves of men"; otherwise said, "they are the exact counterparts of men". In many places, the Holy Quran insists on an evenly-balanced status for both sexes:

"O Mankind! Reverence your Lord who created you from a single sould and from it created its mate". (IV-1) The Prophet eloquently said: "You all are from Adam, and Adam was created from dust" (Tirmizi).ı On the question of depriving female offspring of their right to inherit, by donating part or whole of the property to males, the Prophet stressed: "If I had to opt for either of them, I would prefer females" (1).

1.2 In non-Muslim societies, woman had had until recently no legal entity, nor any rights except those which may be exercised through her father or husband(2). In Western systems, woman still legally follows man in matters of property and should bear his name after she is married. The catholic marriage, being an eternal bond permits no divorce unless either of the couple dies or commits adultery. This clearly implies that woman shall, by force of law, remain her husband's subordinate until one of the doomed fates: death or adultery, occurs.

Islam liberated woman from this state of subservience and accorded her an independent legal entity. She keeps her family name upon marriage and has the right to dispose of her property without her father's or husband's permission. There is no compulsion of any kind on either of the married couple at the beginning or the end of their conjugal union.

1.3 Ialam stresses that man and woman are entitled to similar and equal rights. As a human being, she is respectable and, as such, could in the

(1) Related by Tabarani & Baihaqi
(2) Further details in Chapter 1

early days of Islam grant "the pledge of security" to anybody. The Muslim State and people had to honour her word and keep safe and unhurt the sponsored human even if he be a captive of war. Imam Bukari reported that the Prophet said: "O Umm Hani! we extend safety to whom you pledged shelter, and we grant security to whom you pledged security". So when the Prophet's daughter, Zainab, announced that she had pledged security to her ex-husband, Abul Aas Bin Rabie, whom she left when he did no agree to embrace Islam, the Prophet laid down the principle: "Even the lowest Muslim is entitled to grant a pledge of security". (Related by Ahmad in his "Musnad" P2/215,365,P4/195,P5/250) The prisoner of war - Bin Rabie - was released and handed over all Quraishi funds previously seized with him.

1.4 Man and woman are vested with an equivalent obligation to stand against social evils and redress community diseases in accord with the Quranic command to: "bid what is right and forbid what is wrong". This also applies to resisting oppressive rulers and ungodly laws. In line with this duty, a folk woman opposed the decision of Caliph Omar to confiscate marriage dowries in excess of 40 ounces. "Setting a limit is contrary to God's order" said the woman, then cited the verse: "Even if you have given one of the women a huge treasure of dowry, do not take back a bit of them". Omar therefore rescinded his decision and said: "The woman was correct. and the Caliph was mistaken". (related by Ahmad, 1/57 & Timizi 1355)

1.5 Women were regarded as a symbol of ignominy, inherited as mere chattels. A young woman in particular had the least say in the matter of her marriage.

With the advent of Islam, the Quran abrogated all inhuman practices and corrupt mores to lay down the rule that woman should make the decision in this vital matter of her life. Her consent was indispensable to conclude the marriage contract. This freedom, properly framed, had allowed a woman to come to the Prophet complaining that her father had married her against her will. He told her that she was free to accept or reject her father's choice. The woman -who was seeking to teach others where their rights and limits stood - then exclaimed: "I just wanted to make it known to all women that their fathers do not have the final say in this matter" (related by Ahmad, Abu Daoud and Ibn Maja).

1.6 Obedience, during the Age of Ignorance, meant total subservience to the will of the family head, be he a father or a husband. Islam directed obedience towards a doctrine binding on all men and women, rulers and people. The Holy Prophet said: "No obedience is due to any creature

whosoever enjoins disobedience of God" (related by Muslim), and also said: "No obedience in transgression, but obedience is due in the right". So any transgression of the limits of righteousness entails disobedience, while keeping these limits makes obedience a duty because it is eventually obedience to God who said: "He who obeys the Messenger obeys God".

1.7 In essence, Islam has granted man and woman absolutely equal rights and status insofar as they are human beings. However, they were entrusted with responsibilities devolving on each in the light of physical potentiality and psychological disposition.

So woman is allotted the work of household management, and childrearing, while man is made responsible for the strenuous outdoor work and the support of his family. God said: "Women have rights equivalent to their responsibilities, though men are a degree above them" (II: 218) and said: "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them with their means (IV: 34).

1.8 Islam ensures freedom of expression and belief as a fundamental principle to all mankind. Non-Muslims cannot be compelled to convert to Islam. God said: "There is no compulsion in Religion: Truth stands out clear from error" (II: 250).

Fourteen centuries ago, Islam laid down the principles of human rights and ensured the dignity and respectability of both sexes. In his last pilgrimage the Prophet said: "O Muslims, your blood, property and honour are inviolable as is the sanctity of this Holy day"

These ethical controls and directives are consistent with the true malleable nature of mankind. They were stressed in all divine religions as they discern between man and beast. Existentialism and other materialist theories of our times seek to drag man back to animalism, to the neglect of all honours bestowed by God on him: "We have honoured the sons of Adam, provided them with transport on land and sea, given them for sustenance things good and pure; and conferred on them special favours, above a great part of our creation" (XVII: 70).

2. The Principle of Equality in East and West

Just as the French Revolution called for total equality between man and woman, the Universal Declaration of Human Rights included provisions for equal rights before law without any discrimination on the basis of race, sex,

religion, language or social status. Such equality is meant to encompass both sexes.

However, equality should not imply equivalent status for both laborious and lazy, educated and illiterate, specialist and non-specialist people. It has the paramount sense that the state considers the Islamic law in force as applicable to all people without discrimination because of one's color, sex, or religion, and without any special individual or group prerogatives of any sort. All have equal oppostunities before the law. Legislations organizing the different professions, for instance, should apply to all citizens, be they coloreds, have-nots or women, since they comply with provisions and stipulations stated in the law and admit its implications.

Equality repeals man's encroachement on woman's sphere of activity in home managing and child nursing and rearing. It therefore regards woman's stepping into the shoes of man, leaving her home to compete in tough and sternous work, such as making war, as incongenial.

People in Europe and elsewhere reached this principle of equality after a long history of ruthless exploitation, social injustice and painstaking struggle which lasted until 1948 when the Universal Declaration of Human Rights was agreed upon. As time passed, this sort of equality proved to be tailored to fit the covert purposes of those who laid down its principles in the Capitalist West and the Communist East. Muslims, and Arabs in particular, who blindly imitate the Western patterns of life, have not yet perceived the grave proportions equality of the sexes has taken in the west: exhibitionism, illicit sex and commercialization of woman's body and charms. Contrary to all expectations, it realized no equal pay for similar work nor equal economic position within the joint family system.

2.1 Women and Equality in Communism

In the Communist Theory, equality can only be realized through the revolt of the proletariat to take away property and authority from the Bourgeoisie. All production means are manipulated by the new dictatorship of the proletariat, or the State, incorporated in the politbureau of the Communist Party (1). The State alone decides upon functions and activities to be performed by the communist people. Equality in Communism made it obligatory for woman to go out of her home for hard labor in state farms and factories for as many hours as man. She was stripped of any right to a stable family life and motherhood because of the planned production exigencies.

In Communism, equality goes through two stages: the first, termed by

(3) Marx & Engels: Statement of the Communist Party, p. 65.

Lenin as the Socialist phase, is characterized by a consumption distribution proportionate to individual work. No other factor than work is taken into consideration. The sustenance of a wife and children is of no importance in estimating the worker's pay. The general rule states that "he who does not work deserves not to eat". Women are, accordingly, employed in coal mines, quarries, transport and construction sites. With production as the ultimate objective, an individual's income varies in accord with his capabilities. Production is thus maintained within the planned limits without any need to pay incentives. In the second stage, the true communism is applied with an iron hand. Its principal rule is "from each according to his ability;to each according to his need". It can only be achieved after edifying the proletariat, removing all barriers between intellectual and manual work, eradicating the class system which is based on such a division because talents and capabilities are bestowed on human beings in varying degrees. If only work is taken as the basis for evaluation, equality is formal, but not factual, since the pay shall be unequal due to workers' varying talents and capabilities. Accordingly to be factual, equality should be regarded in terms of an ideal conscience which makes each individual in the society feel the real value of work. He need not be commanded or controlled to perfectly perform his duty, nor does he wait for a discreet pay in return. Individuals equally fulfil their requirements without considering the type of work, the sole criterion; and without need for laws and regulations. In this stage, it should be dispensed of the law and the Statehood since both are aspects of the class system. The statement of the Communist Party emphasizes that if the Proletariat, in its struggle against the Bourgeoisie, inevitably structures itself as a distinct class, and if it erects, through the revolution, its own ruling class, it should, as such, demolish the antiquated production relations through violence and severity. It will be simultaneously destroying all conflicting conditions separating the different classes of the society together with its own supremacy as a new class. "It is not the consciousness of men that determines their existence, but, on the contrary, it is their social existence that determines their consciousness' Karl Marx stated.

However, history bears witness that exactly the contrary has happened in the Communist block where vast sanguinary liquidations were staged by the Central Authority.

Communism has fraudelently lured the attention of workers and women by hoisting the slogan of total equality. Is it true? This is quite a different issue to talk about.

2.2 Communist equality between theory and practice

The Communist Revolution broke out in 1917, and resulted in an

overwhelming victory for Lenin and the Bolsheviks who took over all powers and issued the 1918 Constitution which gave urban workers more rights over the rural. In urban areas, a deputy was to represent 5,000 workers, while representing 25,000 agricultural workers in the rural areas, since the former were true elements of the proletariat (4).

Both the 1924 and 1936 Constitutions had determined the political rights of clergymen and landowners from the standpoint that all powers are held by the working class. It was declared that all people were granted equal and realistic rights providing social security for disabled and senile persons. This development was, as alleged, due to the complete transfer of powers from the working class to the whole community embodied in the Communist Party The latter would represent the Communist people who believe that the eternal and everlasting life had originated from materialism; that, based on their devotion to the Marxist doctrine, they are intuitively moving towards seriously working in order to achieve abundance of production so that the principle: "from each according to his ability, to each according to his need" may be realized (5).

Nevertheless, application in practical life has shown totally different results. The State was obliged to adopt a family system and return to production incentives. Some European Communist Parties did not repeal spiritual values or recognized the authority of Religion. Even the Soviet Union, under Khrushechev, gave up to the policy of passive co-existence as an alternative to infight between different classes. After many decades, it was finally obvious that the Communist statehood (in Russia and China) did not yet attain the Communist Phase, but was standing still in what they dubbed as the formal and temporary phase" which exhibits many similarities with the Capitalist order in that it differentiates between workers' pay according to their roles and capabilities, and adopts a system of production incentives in response to the "Zolin" specialist report

In practice, Communism has proved unable to abolish the family system. It has initially claimed that the primitive human community came into existence when males liberated themselves from jealousy and gave way to mutual indulgence. In the eyes of Communism, the form of the primary human family was a kind of collective marriage where groups of mature men and women were involved in joint sexual relations. The situation, in turn, shall prevail when all relationships of Capitalist means of production are liquidated. 6).

(4) Berto Mariv: "Outline of Communist Party History", p. 196.

(5) Shanktazarov: "People, science and society", p. 357.

(6) Abdul Halim Khafaji: "Dialogue with Communists", p. 190 & Engels: "Origin of family and ownership" translated by Ahmad Ezz Al Arab.

The theory is so inconsistent and fictitious that it has proved a total failure in practice, particularly in the following aspects:

2.2.1 Communism has been unable to free man from his natual inclination to ownership, an innate instinct born with him.

2.2.2 The theory claims that the struggle between classes is unavoidable to remove the State and Law concepts. In this connection, however, nothing was achieved. It alleged that the working class was replaced by the Communist Party which should wholly consist of the country's Labor Force after it had led the Revolution against other classes and swept them out.

In reality, the Statehood and the Law still constitute the underpinnings of the existing Communist regime in both China and the Soviet Union. To say that the State was affected by the existence of a representative Party, can also be the case of other parliamentary regimes with a genuine representation of people in the legislative body.

2.2.3 In Communism, Equality is said to be generated by conflicting interests which result in the eventual effacement of the class system.

There is no single evidence that the class system has disappeared in the Communist countries. Rather, it has been converted into a new form of iron-fist authority incorporated by the one-party dictatorship which suppresses all critics and opponents, whereas other non-Communist regimes show tolerance and indulgence toward all kinds of opposition. Communist workers are stripped of their rights to object or claim any other rights than those which are granted by the Party leadership of which the members liquidate each other in fulfilment of the logic of "the stronger must survive". Comparatively, the workers in non-Communist countries can - through their organized Labor Unions - cripple all sorts of public utilities until their legal rights are secured.

2.2.4 Marxism has only achieved individual and mass equality in poverty, misery and affliction. It has not accomplished the kind of equality boasted in official statements and Communist Constitutions. Far from social justice, the regime has enslaved a whole people to the new powerful masters in the Party leadership. Whenever a change of authority occurs, the new leaders have their ready-made dictionary of accusations: insanity, agency to foreign powers, suspected relations with counter-revolutionary elements and abuse of authority, which are most helpful in sentencing the liquidation of the former ones. Clear evidence was remarkable in the power-struggle within the Russian and Chinese leadership, the suppression of the liberal Czechoslovak people and their

Party leader Dubchek. Needless to say, the power centers in the Socialist countries were repeatedly reported to have staged holocausts where opponents and counter-revolutionaries were burried alive in secret mass graves.

2.2.5 Communism, which recognizes nothing save that perceived by sensory organs, called for equality of consciousness, conceptions and values. Thesecould, in fact, stand as non-materialistic concepts which vary from one person to another in accord with differences in reasoning and emotions. So, how can equality be achieved in matters which in practice, are unequal? Or how can equality of conception be raised as a mass human value dispensing man from the Law and State to organize his life? If the Communists were confident they had set up an order of social equity, they should never have imprisoned the whole Russian people behind what was called "the iron curtain" or never accepted the erection of a tall fence dividing East and West Berlin.

2.2.6 History bears witness to the failure of all previous Communist regimes as those which were established by Muzdok in Persia in 487 AD, and by the Karamyds in Southern Iraq in 890 AD.

3. The Struggle for Political Rights

Political rights are defined as each citizen's right to participate in the administration of the State's affairs. This task may be undertaken either directly (Head of State, Ministers) or indirectly (through representatives elected to the different legislative and consultative bodies as the People's Assembly, the Municipal Council, etc.). Political rights are commonly conceived as the right to elect and be elected, and even to assume public service occupations. Needless to say, the implications of equal political rights to both sexes are one of the most remarkable aspects of our present times provided for in the United Nations Charter and international laws and conventions.

Beside the universal declaration of Human Rights; an international woman's convention - ratified by the UN General Assembly on 20.12.1952 - clearly states the woman's right to elect, be elected and hired in public service on an equal footing with man.

Yet some Arab and Islamic countries still do not recognize political rights for women. This situation has led women activists to find support elsewhere in ideologically, intellectually and spiritually alien societies. The profiteers and power-seekers have invited other women to revolt against Religion and

social traditions which do not hinder society's march towards development and modernization. What traditions are harmful or restrictive to the society's development? What is the very meaning of modernization and reform in a Muslim society? The answers were left to the care of extremist thinkers who assumed the role of women's supporters as a result of the unbalanced attitudes of some religious thinkers who proved very loyal to the old tribal traditions.

Such tendencies and deceitful intentions surfaced clearly during the debates of the 2nd Woman's Conference held in Kuwait between 17-19 March, 1975. In its coverage of the event, a local magazine, "Al-Nahda" mirrored the deep infighting, stating that: "a matter of most importance is that we should hold fast to our traditions and customs, we must maintain them, unless some have proved degenerative of the modern society or restrictive of its development. These should be immediately reconsidered." It went on to say: "The formulation committee raised the question of religious extremism which caused the advent of another hostile front which had to retaliate by completely going astray from Religion. A widening gap had distanted our youth from Islam, and many were measuring advancement and development by the extent of remotness from practicing the daily prayers, Ramadhan fasting and other Ibadah duties. This is probably the most crucial problem facing the future of our youth".

3.1 Disappointing Consequences

As a consequence of the above stands and reactions, materialist thinkers have succeeded in mobilizing and brain-washing a number of so-called women's rights campaigners, involving them in wretchedness and vagrancy. In some cases it has become clear that the object of "the woman's movement" in the Arab Region is to undermine Islam's religious values. An example is found in a study prepared by Mrs. Aziza Hussain, Egypt's delegate to the U.N. Committee on "Woman's Status" and submitted to the International Woman's Conference held in Toronto, Canada, where she emphatically declared that "the Civil Status Laws in the United Arab Republic (Egypt) gives the man a status of the dominant master while it reduces the woman to the position of his subordinate through her role in procreating a largest number of children to shackle her mate".

4. Woman's Political Rights in Islam

Islamic texts have implicitly forbidden Muslims from making the Law. God has forbidden mankind the task of laying down his own legislation. He exclusively holds this right of Supreme Law-maker and just Legislator in all

political, economical, military, social and other areas. Because the concepts of justice, right and good are absolutely intertwined with the interests of all different races, communities and classes of human beings, they should be entrusted to a transcendant Jurist far superior and above all mankind, so that He favours none, has interest with none, can dispense to all, simply because they are all His servants.

Hence, it was God's concern to lay down the methodologies and legislations which govern human life on Earth, while the ruling governments were vested with the role of implementing the divine Law and fulfilling His justice so that the supremacy of the word of God is achieved in this world. God said: "We sent aforetime our Apostles with clear signs and sent down with them the Book and the Balance (of right and wrong) that men may stand forth in Justice, and we sent down iron in which is (material for) mighty war as well as many benefits for mankind" (LVII: 25). The Book, which is the symbol of Legislation and Constitution, has therefore been sent down by God. The judiciary is referred to by 'The Balance'. Its system has been laid down by God and its Law made binding on all people. That men may stand forth in Justice points to the executive body of the State, strengthened by the military force, 'iron'.. However, the might of 'iron' should be used in the right opportunity as specified by God, either to deter the lawbreakers (a material for mighty war) or to achieve the well-being of people (many benefits for mankind). So, we can conclude that no man on Earth was entitled to make the Law. Those who violate this injunction and claim this right for themselves are described as unbelievers and wrong-doers: "If any do fail to judge by what God has revealed, they are unbelievers" (V: 44). It is most important to note that the promulgationof different legislations emanating from the single, basic and sole source of the Quran and Sunnah is lawful, especially that the formulation of Laws encompasses so many walks of life in the present times.

4.1 The Struggle for Woman's Political Rights

Our Arab Region has been simmering with a violent struggle to champion women's right to participate in politics, to elect and be elected. Many political women-activists and campaigners think this field of activity is the magic key which opens all closed doors to woman's honour and dignity. In consequence, they call for holding local and international conferences, setting up specialized committees, organizing liberation campaigns and giving such issues priority over their main role in the Muslim family and the future of their children. In an article published by Mrs. Hedayat Al-Sultan, Chief Editor of the weekly magazine "Illustrated Majalis", the writer bitterly criticized the fanfare of propaganda which accompanied one such women's conference: "No commercial product or even a laundry detergent had gained

such publicity. One can honestly say that the whole attention was focused on external formalities while the very essence of the main theme of the conference was put aside. I must caution that the causes of woman and society can never be treated with such thoughtlessness and carelessness" (7).

From the Islamic point of view, woman is practically qualified to take part in social activities and, consequently, have her political rights in the context of Islam's conception of women's work. To exercise one's political rights necessitates moral safeguards regarded by non-Muslims as social civilities, and perceived by most women as inviting to frivolity and irreverence. Under the 1956 Constitution, Egyptian women were granted the right to vote. Nevertheless, only 4% of the total female population participated in the first referendum ever held since, in June 1st, 1956. In many European Parliaments, the number of female deputies is negligible, though Europe's women had gained their political rights a very long time ago. Yet in some developed countries, women have not been granted such rights.

Scholars, in ancient as in modern times, have shown conflicting views on woman's right to a role in politics according to their individual perception of the nature engendered in this work. Old Jurists discussed political rights in the light of the conception of the Supreme Guardianship or "Higher Authority" which assumes the duties of promulgating the laws, settling the disputes, pronouncing court judgements, implementing judicial decisions and governing over the people, including the State Leadership. Tendencies and opinions on women's political rights can be outlined in the following three points:

a. Islam is said to prohibit such rights to woman
b. There is no explicit text or reason for prohibition
c. The whole issue has no connection with Religion or Law, but is completely a social and political question.

Before we consider the arguments of each side, it is worth noting that old jurists have unanimously agreed that the State headship is forbidden to woman. They were in consensus to say that woman is ineligible to assume the leadership of the State and act as Caliph of the Muslims. This function requires, among other things, commingling with strange males, conferring with senior officials in private, and negotiating with men on different affairs of the Muslim Umma. This clearly is a paramount prohibition to women. The Prophet also said: "A people shall not be successful if they assign a women to rule their affairs" (related by Bukhari). State occupations other than the State headship have been differently considered as follows:

(7) Mrs. Hedayat Al-Sultan, an article published in "Al Watan" daily newspaper on 19.3.1975.

4.1.1 Some scholars said that woman cannot be vested with the duties of State Minister because, as such, she would be asked to counsel the Caliph or Ruler. This may be taken as a sign of his incapability and ineptitude, especially if she advanced poor or corrupt advice. Other arguments were the free-mingling and consultation in private with strange men, and disobedience to her husband if he wanted to forbid her from this work. We must add that prohibition on the grounds of women's poor counsel can be abrogated by the Prophet's seeking the advice of his wife, Umm Salama, on dealing with his companions who had refused the Treaty of Hodaybiya. He thereafter implemented and praised her advice.

4.1.2 Some scholars saw that woman, whose evidence is considered to be worth half of man's evidence is legally prohibited from undertaking justiceship, which requires self-integrity and completeness of reasoning.

However, it was argued that woman's ability to give evidence has been interpreted by the Prophet in relation to the Islamic principle that the evidence of two women is equivalent to that of one man. This principle was revealed by the Holy Quran: "So if the one erreth the other will remember" (II: 282) that is from fear of digression from the real facts. Such fearness has nothing to do with the assignment of woman to the judiciary, especially in competent branches closer to her nature. Imam Abu Hanifa asserted that woman may assume all branches of the judiciary except "the limits and equal retaliation", i.e. the criminal court. Al-Tabari and Ibn Hazm went further to say that woman is not prevented from undertaking justiceship of any kind (8), since God has addressed His command to all mankind when He said: "And when ye judge between men, that ye judge with Justice" (IV-45).

4.1.3 Some reformist scholars, such as Mohamad Rashid Reda, Mahmoud Shaltout and Dr. Mohamad Youssuf Moussa, saw that woman is entitled to exercise all sorts of political rights, except being elected to the Supreme Guardianship; i.e., the State headship. They argued that in Islam - as incorporated in the Holy Quran and the Prophet's Sunnah - woman's rights and duties are evenly balanced and equal to those of man. We should essentially abide by these teachings and no exceptions therefrom shall be accepted unless a specific text is given. The only Islamic text particular to this case prohibits woman from assuming the Caliphate (9).

4.1.4 Other scholars maintained that the question of woman's political rights represents no legal or juristic problem to be identified with the

(8) Omar Telnessani: "Omar, Shahid of the Mosque"

(9) Dr. Moh. Moussa: "Islam & Life" and Abdullah Kafun: "Islamic Principles".

principles of equality and democracy. Rather, it should be solved in a socio-economico-political perspective. A prominent Jurist, Dr. Abdul Hamid Metwalli, adopted this trend in his book entitled: "Fundamentals of ruling system in Islam" arguing that logic plays an important role in interpreting the Special Law principles. Therefore, all citizens were necessarily held equal in such matters as State employment and tax-paying.

But such logic was proved poor and imperfect in constitutional issues. There is evidence that the "Right to elect" did not emnate from a Law doctrine, nor is its organization governed by a concept of Law. This Right is in fact a product of the socio-political environment which also controls its exercise. He mentioned that professor Barthelemi remarked: "It is a mistake to blindly imitate any foreign country in this particular issue in thought that it represents the final step in the way of progress and development. Many underdeveloped countries in East Africa had granted woman her political rights long before some European States did, but this was never considered as an evidence of progress and development," In France, political rights were granted to woman only in 1945, while in New Zealand woman was granted them in 1919 and in Turkey in 1924.

4.2 Islam's Comprehensiveness and Political Rights

Islam stands as a comprehensive system taught by God to organize our life in this world and the Hereafter. Its principles were made in full knowledge of human strengths and weaknesses. It has made it incumbent on all Muslims, men and women, to take interest in the different affairs of the Islamic Umma.

One group of those thinkers who stand for the application of Islam's tenets and regulations argued that: "Islam is not opposed to woman's exercise of all her rights, including the political ones, on condition that she fulfils her duty towards her home, family, childrearing and training" (10). Yet Muslim socio-political thinkers reflect the far-reaching influence of Western values on their way of looking at Islamic issues. Islam differs from the earlier religions of Christianity and Judaism in that it does not only teach mystical worship rituals, but it has also communicated to mankind, with the utmost probity, a complete system touching on all disciplines of economics, politics, and social life. It does not ignore the individual and collective lives of human beings as did Christanity when it attributed to Jesus Christ the principle of "To Caesar what belongs to Caesar, to God what belongs to God". As against all other Religions and Civilizations, Islam unreservedly encompasses all facets of

(10) Mahmoud Al Gawhari: "The Muslim Sister", p. 46.

human life on Earth and in the Hereafter. God revealed to His Apostle. "Say: Truly my prayer and my service of sacrifice, my life and my death are all for God, the Cherisher of the worlds" (VI: 162). That is, if we cannot associate another God with Almighty Allah in the worship rites, we should also acknowledge His unicity as Legislator in all legal, social and economic, as well as life and death, matters: "But, truly, the Command is with God in all things" (XIII: 31); "Is it not His to create and to govern?" (VII-54).

From this standpoint, woman is required to take part in social activities, contribute in establishing the Supremacy of the word of God and enforce the principle of "enjoining what is right and forbidding what is wrong". She should equally have a say in those persons elected to represent her in the legislative bodies, just as female-students are given the right to elect their representatives in the Students' Association.

4.3 Islamic Jurisprudence and Woman's Political Rights

It should be borne in mind that the term "political rights" was not known in the early ages of Islam. Those scholars who permitted it to women had considered "political rights" as a potential component of 'Jihad', social activity, a special role in the Judiciary, or in applying the principle of "bidding the right and forbidding the wrong". However, it is worth noting that women's oath of fealty to the Prophet did not comprise this principle, but was confined to: "That they will not disobey thee in what is right" (LX: 12). Also, in the Aqaba pledge of allegiance, the main point was the commitment of the people of Medina to protect the Prophet. This was duly a man's task, but women's attendance evidenced their right to participate in similar kinds of Jihad in the limits accorded to them. The above principle was equally enjoined to both sexes. God said: "The believers, men and women, are protectors one of another, they enjoin what is just, and forbid what is evil" (IX: 71). This principle was made a duty for which God cursed those who discarded it: "Curses were pronounced on those among the children of Israel who rejected Faith; by the tongue of David and Jesus, the son of Mary, because they disobeyed and persisted in excesses; Nor did they forbid one another the iniquities which they committed" (V: 81, 82). The provisions of these verses are equally incumbent on both men and women, with the exception that women's commitment to "bid the right and forbid the wrong" differs from men's. Let us remind outselves that woman is legally exempted from waging war or overthrowing an oppressive ruler, and is ordained to ask for her father's or husband's general and special permission, except in case she has to drive back an enemy, before going out of her home. (Fiqh Al Sunna P 2/173 where Abu Adoud Al Tayalissi related a Hadith including: "She should not leave her husband's home unless she gets his permission".

For the other face of political work, namely the participation in general elections to people's Assemblies, there exists no restrictive texts unless it is associated with any prohibited act. The Hanafi and Zahiri Jurists where of the opinion that woman may assume the Judiciary because, in Islam, a judge simply applies the Sharia' Law to the facts in hand while he, himself is abiding by this Law, It is, rather, seen as an act of solemn testimony for which the Muslim woman was fully qualified.

4.4. Political Rights and Islamic Texts

Islamic texts widely used to legalize woman's participation in the field of politics included these Quranic verses which recognize equal rights for men and women: "And their Lord has accepted of them and answered them: "Never will I suffer to be lost the work of any of you, be he male or female, ye are members one of another" (III:195) in addition to the Prophet's traditions of the same bearing: "Women are the exact counterparts of men", and "All people are as equal as the teeth of a comb" (related by Al Hasan in the "History of Baghdad" of Ahmad Ibn Al Khatib Al Baghdadi, p. 7/57).

However, it must be remembered that such equality is but one of the general rudiments which Islam has organized the exercise thereof. This organization has, among other things, restored man at the headship of the family; "Men are the protectors and sustainers of women", (IV: 34) and had restricted the state Rulership to man in compliance with the Prophet's saying: "A people shall not be successful if they assign a woman as their Ruler".

It is our prime duty to maintain these dictates and never transgress them in response to any customary laws or mundane ambitions. The present definition of "political rights" centers on citizens' involvement in the administration of the affairs of their country. This may be exercised in two ways:

a. Direct involvement: to assume the functions of Head of State or Prime Minister. In the Juristic concept, these functions are classified under the "Supreme Guardianship", and were forbidden to woman on the grounds that they necessarily engender prohibited commingling and private deliberations with alien males. The wisdom of prohibition covers the preservation of the family system and the lawful rights of the husband and children to live in an atmosphere of peace, concord and affection.

   Another kind of direct involvement is achieved through the representative assemblies whenever a citizen is elected to them.

   This function was not classified under the "Supreme Guardianship" and, as such, may be considered as indirect participation in the State administration. There is no explicit text forbidding such functions to

woman. Those who called for her prohibition had based their arguments on the realities of the corrupt life of women's exhibitionism and social contamination in the Western-oriented systems. However, it should be borne in mind that these immoralities were never a part of social and political activities, where woman can hold fast to her nobility, dignity and piety.

b. Indirect involvement is the result of a citizen's participation in general voting to elect his representative to a local Council or Legislative Assembly. No Islamic text has prohibited this right to woman because going out unveiled and mingling freely with both sexes are not an organic element of woman's voting during general elections. They may have a special voting committee in each and every constituency.

4.5 Grounds for prohibition of representative work: A discussion

In this connection I shall quote the following lengthy excerpt from Dr. Mustafa Al-Sibai's: "Woman between Law & Jurisprudence" where he says: "There exists no Islamic text which disqualifies woman as a member of the Parliament or any other representative body insofar as this body concerns itself with legislation and control. On the other side, one can discern that Islam's teachings and regulations prevent her from utilizing this right, not because she is disqualified or incapacitated, but on grounds of general and social interest. A Muslim woman has a prime responsibility towards her family. Nothing should drag her attention away from taking care of her queendom. Also mingling with aliens, particularly deliberating in private and unveiling other parts than the face and the hands, are prohibited in Islam. Travelling alone out of her town or village, without being in company of relatives of a prohibited degree, is another matter which Islam forbids to woman who would follow the straight path of perfection" Dr. Al-Sibai went on to say: "These four prohibitions asserted by explicit Islamic texts, make it difficult, rather impossible, for woman to exercise her right to be elected. As a member of Parliament she is required to attend morning and evening sessions, to mingle with other deputies outside the Assembly Hall, to expose to aliens what was prohibited by God from her body, charms and manners, to travel alone from her remote constituency to the Capital city or as a member of a Parliamentary delegation to a foreign country. No pious and devout Muslim can claim that any of these matters may be permitted. So, from the Islamic point of view, woman is fully capacitated to undertake the function of people's representation, but she is feared to fall prey to many probibitions which Islam shall not tolerate" (11).

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(11) Dr. Mustafa Al-Sibai: "Woman between Law & Jurisprudence" p. 151.

4.6 The nature of political work between permission & prohibition

It is my opinion that all prohibitions listed by Dr. Al-Siba, are not inherent elements in the nature of this kind of work, nor are they imposed by the exercise thereof. They are all man-made and are regarded as emanating from corrupt systems and deceitful manners.

Parliamentary membership is no different from working in other educational and health sectors where women are encouraged and welcomed. A female representative is not obliged to travel abroad or accompany a Parliamentary delegation to foreign countries. Wearing enticing dresses or exhibiting a lustful body are not prerequisites for woman's exercise of her politicalrights. So, we may not prohibit an activity because it malfunctions or is badly misused. Let me note, for example, that alcohol and spirits are the final product of grape misuse through long fermentation. No one has ever appealed for people to refrain from grape cultivation on the grounds that alcoholism is prohibited by Islam.

It is not the right of any human being to prohibit something which was not prohibited explicitly by the Holy Quran and the Prophet's Sunnah. Even the Ruler is not empowered to restrict any social right or limit its exercise to males to the neglect of females. A French writer, Marie Caribou, has this to say: "A woman who excels in public life does so at the expense of her personal affections; comparatively, man can maintain an even balance between his public life and personal affections" (12). We may conclude that the prohibition, far from being sent down by God, is a dictate of public and social interests which may vary in accord with the prevailing conditions.

In summary, I do not intend to make an inventory of the literature published on this subject. I wish only to attain the corollary that the problem does not lie, in principle, in political work as a right or a duty, but is entirely embedded in external controls which assert that home managing and childrearing is the woman's first field of activity. As such, it touches on public and social interests and has, accordingly, been treated by all world systems, even those which do not recognize religion and its ethical values. In a referendum on "Woman's work" conducted in the Soviet Union, 70% of the respondents were of the opinion that: "The Soviet society is in no need of such large numbers of women going to work out of their homes. Family life truly needs them more than the factories do. A mother should take care of her household duties and be at the service of her children at least five hours a day" (13).

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(12) Egyptian Daily "Al Jamhouriyah", an article published on 24.3.1964

(13) These results were published in Egyptian daily "Al Ahram" on 8.6.69.

4.7 Harmony between home and social activities

The question is therefore generally tied to the possibility of setting up an even balance between woman's right to work, in the political or any other field, and her duties towards her husband and children. This has obviously no connection with what Islam permits or prohibits. A matter which needs more consideration is the kind and impact of her promiscuity with aliens, though this is still under continuous study by Western thinkers and theologians in many countries which had very long ago dropped any kind of discrimination between what is permitted and what is prohibited.

An opinion poll conducted in the USA on "woman's work and effects of promiscuity" has shown that: "Woman's free mingling and promiscuity with man is a main reason for her denying herself the comfort of a family life, and refraining from marriage". It was also recommended that woman should take her chance to marry before entering practical life to compete side by side with man. This, in turn, will relieve most of the complications of marital life.

It must be said that woman's participation in political work, either to elect or be elected to Parliament, or be assigned to handle women's issues which affect their social life and interests, is not forbidden by Islam if conducted in the framework of Islam's ethical principles and controls. These explictly prohibit unlawful promiscuity, exhibitionism and thoughtlessness in ratifying any rules and decrees which stand in conflict with what is enjoined by God and His Messenger. Therefore, what is prohibited by the Quran and Sunnah should remain for Muslims a prohibited area of legislation. Aday Ibn Hatem reported that he approached the Prophet, who saw around his neck a chain carrying a golden cross and ordered him to take it off, then recited this verse of the Holy Quran: "They take their priests and their anchorites to be their Lord in derogation of God" (IX-31). Aday said: "But we were not worshipping them" The Prophet replied: "Is it that they have permitted for you what is prohibited, and you obeyed them, and they have prohibited to you what is permitted, and you obeyed them?" Aday answered: "This is true, O Messenger of Allah". The Prophet said: "This is how you worshipped them in association with God".

From the above story, it may be asserted that nobody on Earth, be he a ruler, clergyman or Jurist, is entitled to alter the injunctions and prohibitions of God. However, a Legislative Assembly is not forbidden from the following:

a. To promulgate the statutes known to belong to the sphere of "what is permitted" such as the laws of traffic, construction, vaccination and hygiene and civil service. It goes without saying that such activities cannot

belong only to man.

b. To formulate Sharia principles in definite law articles. Specialist women may also contribute in such duties insofar as the lawful safeguards on woman's work are observed. Their presence as members of a legislative body is, too, even necessary to clarify women's opinion and requirements. But their attendance should be optional, since they can submit their thoughts in writing.

c. To seek counsel with women, as it was reported that the Prophet consulted his wife, Umm Salma, in a crucial matter. Woman is therefore permitted to sit among members of the "Shura Council" since the only restrictive text bears on the "Headship of the State".

d. To dismiss unfit members. In Islam, the "Shura Council" is concerned with censoring the implementation of Islam's teachings in relation to the constitutionality of the laws in force and the accountability of senior officials, so that offenders and wrong-doers are rooted out. In this connection, the Prophet had sacked Alala' Al Hadhrami and Caliph Omar had dismissed Saad from ruling Islamic provinces when Muslim peoples lodged complain against them.

4.8 Woman's political rights under the Prophet's Companions

There is absolutely no evidence in historical sources, the Sunnah or other Islamic Reference Books that woman had exercised "political rights" in the same existing concept of this term, though she was consulted on many different issues and advised and directed men towards wise solutions. This may be attributed to the fact that the most important characteristics of this right, namely voting, election and membership of peoples' Assemblies, were not known in the early days of Islam. Legislation rested wholly with God, the Initiator of all laws, while man was forbidden from identifying himself as a law-marker. Other functions of State administration were filled by choice or appointment, at the discretion of the ruler, from among the most competent and pious people.

The Caliph of the Muslims or the Ruler was himself selected by eminent figures of the Muslim leadership and had to receive the oath of fealty from all eligible men in the Muslim society for themselves and on behalf of their wives. Woman had never been a member of the selective body of notables, nor had she been compelled to pledge allegiance to the new Caliph. This duty was restricted to man who was responsible for waging war or Jihad, a part of which is the overthrow and explusion of the Caliph if he transgresses or goes astray from the Godly Constitution. Another reason is that "Political rights" were regarded as an element of the Supreme Guardianship which was

exclusively forbidden to women. During these early times, man represented a whole family or tribe, including all its men and women.

It should be noted that the Guardianship may encompass the following functions:

— The State Headship or Supreme Guardianship which was forbidden to woman.

— The Guardianship of worshippers (Imam); that is, to lead the daily collective prayers. This was granted to woman, but only among others of her own sex. Woman is forbidden from leading men in prayers.

— The matrimonial guardianship is a joint issue to be agreed upon between the bride-to-be and her guardian, in order to conclude the marriage contract.

It is no secret that, in the early days of Islam, woman exercised some rights, which may be considered full political rights according to the modern concept of these rights. In the following section, we will discuss woman's participation in laying down the basis for modern political rights and the Jurists' opinions thereon.

4.9 Woman's Oath of Fealty

It is evident that the Prophet took the oath of fealty separately from women, who pledged to support the new religion, worship none but the One Allah, that they will not steal, nor commit adultery, nor kill their children, nor indulge in slander, nor disobey in what is right.

It is also evident that the first belligerent factions formed by the people of Medina to defend Islam and its Apostle had secretly met with the Prophet in the Al-Aqaba area near Mecca. They were, in all, seventy-three men and two women: Nossaiba Bint Kaab and Asma Bint Amr. Both came with their people for pilgrimage and witnessed the oath-taking with men. In this verbal treaty, negotiations were conducted in exactly the same political atmosphere as nowadays. The vanguards asked: "What shall we be committed to?" The Prophet replied: "You pledge to hear and obey in all good and bad conditions, to pay from your wealth in all easy and difficult days, to enjoin what is right and forbid what is wrong, to worship Allah without fear of any blame, to help me and protect me when I move to your town from everything you protect yourselves, your wives and your sons against, and your reward shall be the Gardens of Eternity" (14).

We have previously mentioned that the Prophet had asked his wife Umm

(14) Related by Imam Ahmad & Baihaqi, Vol. 1, p. 104 of "Seerat of Ibn Hisham"

Salama to counsel him during the events which accompanied the Treaty of Hudaibiya (15). History also bears witness that Asma Bint Abu Bakr had advised her son Abdulla Ibn Zubair during his upheaval for the cause of Islam.

To return to the Al-Aqaba Oath of Fealty, it should be noted that women were among their families and relatives, but the entire clauses of the treaty concerned mainly the male negotiators since they centered on carrying swords to make Jihad in the way of Allah. So, a leader among them, Assaad Ibn Zarara, addressed his people by saying: "O people of Medina! We have travelled all this way on our camels with the knowledge that he is the Messenger of Allah, that taking him under our protection will arouse Arabs against us, result in the best amongst you being killed and that we must impose the good example by the sword. Either you will persevere, then take him (under your protection) and your reward shall be given by Allah, or you will feel afraid, then let him go because Allah is powerful enough to protect him". They said: "By God: we are ready to honour our pledge and will never resign it" (16).

The above text of the Medinians' oath of Fealty was therefore regarded as a constituent charter to organize political relations between the Prophet of Islam and the people of Medina on three main terms:

4.9.1 To help him in all easy and difficult days and to hear and obey him in all good and bad conditions, even though they are forced to fight against the whole world.

4.9.2 To consider him exactly as one of theirs, protect him and never surrender him to the enemy, Quraish tribesmen or others.

4.9.3 To be steadfast in worshipping Allah and fear no blame or punishment in saying words of righteousness.

The reward given in return shall be the Gardens of Eternity and the paradise of Allah in the Hereafter. Woman will take part in the reward if she assists man, be he her husband, father or brother, with all means enabling him to resist in war against the enemies of Allah. But no reward in this world, nor earthly gains in return for helping to establish the word of Allah.

The people of Medina, by the tongue of Abul Haitham Ibn Tihan, raised their sole condition in a question he addressed to the Prophet: "O Messenger of Allah, there are many ropes tying us and the Jews; what if we cut them and you are victorious, will you go back to your people (in Mecca)

(15) "Seerat of Ibn Hisham", Vol. 3 p. 320 & Askalani: "Fath Al Bari", Vol. 6, p. 271
(16) Related by Imam Ahmad & corrected by Ibn Haban & Al-Hakim

and leave us?" The Prophet smiled and said: "I am from you and you from me; I fight whom you fight and make peace with whom you make peace" (related by Muslim in his True Hadiths)

It is worth noting that in the wake of the conquest of Mecca, the Prophet stood on Mount Safa praying and thanking God. Muslims' eyes gazed at him and they whispered among themselves: "How would you feel if the Prophet, after Allah had opened for him the way to his land and abode, goes to live there?" The Prophet replied: "May I seek the forgiveness of Allah, my life is with you, and my death will be amongst you" (related by Muslim).

4.10 Woman's participation in wars

There is no doubt that some Muslim women had participated in military operations beside their husbands or sons. The most famous were Nossaiba Bint Kaab, Safiya Bint Abdul Motaleb, Aisha, Umm Aslam, Lubaba and Umm Attya Al-Ansarya. Their roles are detailed in the coming section. Among those who actively contributed in warfare was Safiya Bint Abdul Motaleb. Following the Muslims' defeat in the battle of Uhud, she carried a spear and waved it in the faces of the defeated warriors as she shouted: "You were repulsed, but not the Messenger of Allah."Nossaiba Bint Kaab stood fast beside the Prophet when most of the men hurled themselves on war spoils, paying no attention to the unbeliver's tricky stratagem.

The safeguards which were thereafter imposed on women's participation in warfare were aimed at maintaining their interest in the Muslim society. On the contrary, they had not affected their role within the family nor in social life. During the lifetime of the Prophet, women had, just as men, reported and narrated his traditions and sayings. In the rare cases where woman had waged real war beside her husband, brother or son, she had stood firmly in the battlefield and not hesitated to show evidence of her courage and heroism, and to sacrifice for her pious belief. Examples include:

a. Nossaiba Bint Kaab (Umm Ammar): She stood courageously to defend the Prophet when the warriors ran away from their posts to collect the booty during the events of Uhud: "Wherever I looked, to the right or to the left, I saw Nossaiba fighting to defend me". She had thirteen bleeding wounds in every part of her body and the Prophet told her son: "Wrap her wounds and cure her; May Allah extend His Blessings on you, people of lofty status" (17)

b. Safiya Bint Abdul Motaleb: She was among the women who accompanied the Muslim Army in the Battle of Bani Al Mustaleq. The Prophet

(17) "Seerat of Ibn Hisham", Vol. 1, p. 105.

ordered them to take refuge in a fort close-by, guarded by Hassan Ibn Thabit. A Jewish enemy, trying to break through to the fort, was detected by Safiya who ordered Hassan to go and kill him. But Hassan, who lacked courage and showed cowardliness, was told by Safiya: You are not the one for this (role); then she went down to the fort, took the Jew by surprise and killed him with an iron bar. On the day of the Battle of Uhud, she was there during the Muslims' defeat, carrying a spear and shouting to the defeated warriors: "You were repulsed, but not the Prophet"

c. Lubaba Bint Al Harith (Umm Al-Fadl), the wife of Al Abbas Ibn Abdul Motaleb, and the first woman to embrace Islam after the Prophet's wife, Khadija Bint Khwailid. She saw Abu Lohab winning over Rafee, an eminent companion of the Prophet, and was about to kill him because the latter had shown his affection for the victory of the Muslims on the Day of Badr. The warriors were away from the town, waging war in the cause of Allah and Islam. So Umm Al-Fadl took an iron bar and beat the aggressor until he fell on the ground unconscious with many wounds to his head and had to remain in bed until he died of his injuries.

d. In the Battle of Khaibar, there were six female participants. Imam Ahmad reported from Hashna Ibn Zyad that his grandmother said: "We were six women who went out in company with the Muslim Army to Khaibar. The Prophet asked us: "Why are you away from your homes? Who permitted you to leave?" I replied: "We wish to serve in this war, supply arrows to the fighters and give water to the thirsty; we have brought medicines to heal the injured and a spindle to weave the tents so that we may assist in the cause of Allah". She went on to say: "Following the victory in Khaibar, the Prophet gave us equal shares as men in the war booty."

On the authority of Abu Daoud, the Prophet had told these women: "Stay there". And after the conquest he gave them an equal share of spoils as men. Abu Ishaq, on the other hand, mentioned as a fact that the Prophet retained for these women a portion of the booty but it was not equal to that of men-fighters.

Here we should note that the narratives of Imam Ahmad are the most reliable on the grounds that the Sunnah references are more accurate than historical accounts. A share of booty could mean a donation of any amount which may not be equal to man's share. Imam Muslim reported that Ibn Abbas was asked: "Were women in company of the Prophet's Army during his conquests", he replied: "They nursed the wounded and took their part in the spoils, but did not have equal shares as men".

Their participation in the Holy wars is thus undeniable. It is also true that they were allotted a certain donation as a means to encourage them. The controversial amount of their portion does not repeal the fact that woman was accepted as a Mujahid in the cause of Allah.

e. Imam Muslim reported that Umm Atya Al Ansarya said: "I partook with the Prophet in seven conquests where I remained in the rear lines with Army supplies to cook the meals for the fighters, cure the wounded and nurse the sick".

f. Imam Muslim also reported that both Aisha and Umm Salim were - on the day of the Battle of Uhud - busy carrying water-skins on their backs to pour them out in the mouths of men. Muslim's story denies what was long believed, that only one woman, Nossaiba Bint Kaab, participated in that Battle (18). Islam made it clear that Jihad does not mean only carrying arms against the enemies, but all other auxilliary works are regarded as equally important because the mere presence in the warfield dictates a knowledge of how to use arms to fight, at least, in self-defence wherever necessary.

4.11 Muslim woman and her exercise of political rights

Some citations revolve around the role of Aisha, The Mother of Believers, in the sedition which split the Islamic Community into two large factions. Her attitude reflected an obsolute opposition to Imam Ali. She was regarded as the political leader of all opponents, and the general commander in whose name orders and statements were issued. She used to write to notables and dignitaries among the Muslims saying: "From Aisha, Mother of the Believers, to her purest son; as soon as you receive my letter, come to help us. But if you fail to do so, you will be betraying (our cause)". This was viewed by some as a pattern of the Muslim woman's exercise of her political rights. Others held to the responses made to Aisha, which read as follows: "I will be your purest son only if you quit (this role) and return back to your home; otherwise, I will be the first to firmly stand against you" (19). Here the attitude of her opponents was considered as clear evidence that woman should be banned from all social and political activities, that her first and foremost duty should be within the bounds of her home. Objections raised against Aisha were not viewed through her maintenance of God's order to both sexes to "enjoin what is right and forbid what is wrong", but rather they were seen in the light of her attempt to champion an armed

(18) Mohamad Bashibil: "The Battle Of Uhud", An Author's Opinion.

(19) Al Tabari: "History of Nations and Kings.

movement to overthrow the ruler without a lawful reason. This, it had been explictly pronounced in the Islamic Texts, is not a woman's duty yet it was repeatedly stated that Muslim woman's participation in social and political life was not only her right, but also a duty to be fulfilled whenever she detected a violation of the limits of God or the values of the religion by any people from the Ruler to the lay man. God said: "The Believers, men and women, are the protectors of one another; they enjoin what is right and forbid what is wrong". However, Aisha's opposition was in no way structured on this fundamental rule but, in all, a matter of dispute and selfjudgement (Ijtihad). Needless to say, playing politics, in principle, is essentially a task of sharing the responsibility of the State's administration with the elected ruler and counselling and directing him to the Straight Path. And these functions together constitute the core of the Islamic rule "to enjoin the right and forbid the wrong".

To reform our social life is a prime duty incumbent on all Muslim men and women. It should be conducted within the limits set by God and in accordance with Islamic ethics and prohibitions. To carry out this duty should not create such hostile blocs within the community of Believers that they eventually point their arms at each other's chests. The Prophet said: "All (that belongs to) the Muslim is prohibited to other Muslims: his blood, property and honour" (related by Muslim). Prohibition, to be sure, applies to men as well as women.

So, Aisha, Mother of the Believers, was not confronted for her participation in social activities or her intent to reform the Muslim society, but for the following two main reasons:

a. She was seeking to avenge the assasins of Caliph Othman. The new Caliph Ali did not show apathy or indifference that "suspicions should not be reason for bearing on anyone's freedom", even though the slain was the Head of State. The sanctity of Islamic legal principles should be ensured in the first place. The same attitude of Aisha was adopted by Othman himself when his predecessor, Caliph Omar, was stabbed to death. It is known that he was about to kill Abdullah Ibn Omar who took it upon himself to retaliate against Al-Hormuzan (20), the assasin of his father. Hence, she had no lawful motive to desert and split the Muslim ranks and oppose Caliph Ali.

Objections against Aisha had been explicitly expressed in many reported

(20) Al-Hormuzan was seized red-haned, and Abdullah Ibn Omar killed him on the spot. Caliph Othman was of the opinion that he was not authorized to judge and kill the assasin. But other opinions viewed that the State, at that time, had no Ruler to authorize the assasin's killing, Abdulla was forgiven and ordered to pay the blood ransom to Al Hormuzan's inheritants.

citations. Garia Ibn Kodama Al-Saadi said in an address: "O Mother of Believers, by God, the assassination of Othman Ibn Affan is a lesser burden than your exit from your home riding on this damned camel". Al-Ahnaf Ibn Qais, in his dialogue with Aisha, asked her: "Have you been confided by the Messenger of Allah to desert your home for such a duty?" She said: "No". He then asked: "Have you had his pledge that you are infalliable?" She said:"No".He went on to say: "It is therefore true that God had chosen for you to stay in Medina, but you insisted on being in Basrah; and He ordered you to stay in the home of His Apostle, but you continued to stay in the house of a son of Dabba, (Al Harasa Ibn Dabba) (21); would you tell me, Mother of Belivers, whether you are here for war or for reconciliation?" She said: "For reconciliation". Al-Ahnaf said: "By God, if they were only throwing stones at each other, they would not accept your good offices, how is it then that the swords came out of their sheaths?" Aisha replied: "To God, I raise my complaints against my ungrateful children" (22).

b. The Mothers of Believers or Prophet's consorts had a special position and were entrusted special responsibilities in matter of instructing Muslim women and exemplifying the right Islamic way of life. They could not re-marry because their marriage with the Prophet was not an ordinary one, and they should wear the Islamic veil to safeguard their personal dignity. God said: "O consorts of the Prophet! Ye are not like any of (the other) women", and stay at home and do not move about displaying yourself in the fashion of the times of Paganism" "O consorts of the Prophet! If any of you were guilty of evident unseemly conduct, the punishmnent would be doubled to her, and that is easy for God. But any of you that is devout in the service of God and His Apostle, and works righteousness, to her shall we grant her reward twice and we have prepared for her a generous sustenance" (XXXIII: 30-33).

The position and safeguards reserved for the Prophet's wives were known to all Muslims. This was evident in the above dialogue between Aisha and Al-Ahnaf. Another Mother of Believers, Umm Salama, did not come out of her home to help Caliph Ali and found it purposeful enough to send her son Omar. She then said: "O Prince of Believers, if it was not disobedience to God, the Exalted-in-Power, (and if it was not unacceptable to you) I should have joined you. This is my son Omar and, by God, he is dearer to me than myself" (23).

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(21) Al Harasa killed seventy men of his own tribe in defense of Aisha.
(22) Ibn Al-Qayim: "News of women" Beirut, p. 32.
(23) Al-Tabari, Vol. 5, and Ibn Al-Athir (Al Kamel) Vol. 3, p. 351.

We come therefore to the corollary that Muslim woman's political rights should be exercised only in accord with the obligations of the family relationship and the Islamic safeguards, so that the political work would not encroach upon woman's main sphere of activity and family life.

5. The Social Entity of Muslim Woman

Those who deny the Muslim woman a full social entity, should be told that there exists no explicit text to take away from woman her right to have an independent personality. Many of the foregoing texts had, rather, asserted this right, leaving no room for excepting women from rules, limits and safeguards. Some thinkers focused on the different aspects of Arab social life in the early days of Islam to draw the conclusion that the Muslim woman was given no role within her society's activities. Here and there, one can note that the Islamic legal rules of Ijma (unanimity of opinion) and Qiyas (matching) made to derive the closest right judgement to the teachings of the Quran and Sunna, are deliberately dropped out and completely ignored. So, the deeds of Muslims of whatever rank in the social scale were discarded as a matching source of legal provisions. Such silence over the different aspects of women's participation in social life made it difficult to extract any good judgement to solve the pendent issues. This kind of participation cannot, sometimes be directly cited or asserted in the narratives of early Muslims, but may be grasped under other types of activities and issues related to women's participation in public life.

An example is Sayyida Sukayna, the daughter of Imam Al Hussain, who was regarded as "the first lady" in the sense of her time. But this "title" cannot be compared with our contemporary concept of the functions of leading women in the present society, mostly infested by the blind imitation of Western patterns of life.

Zainab, the Prophet's grand-daughter, is another example of courage and eloquence. She witnessed the tragic events of Karbila and was known in history as the "Heroine of Karbila". She has been beside her brother, Imam Al-Hussain, when he was assassinated, and herself received 33 bleeding stabs and 43 strokes. When the fighting came to an end, Zainab was seen amid a large number of children and widows, who were busy collecting heads and limbs of the multilated corpses of their husbands, brothers and sons. She was screaming: "O Prophet Mohammad! May Allah and His Angels pray on you! Here is Al-Hussain lying in a pool of his own blood in a deserted place with his limbs mercilessly cut off. O Prophet Mohammad! Here are your "daughters" made captives and your "offspring" slain" (related by Al Tabari).

She was among the chained captives when the tyrant Ibn Zyad came to ask her: "Who are you?" She addressed her answer to one of her maids: "This is known to be Zainab Bint Fatima". He replied: "Praise be to God who exposed you, killed you and belied your slanderous allegations". Unforgetful of her dignified and lofty position,, she said: "Praise be to God who honoured us with His Apostle and purified us from all sins. Contrary to what you have uttered, God exposes the profligate and belies the deviant, both are not from (our people), Praise be to God". The tyrant went on: "Didn't you see what God had inflicted on the people of your house?" She replied: "Fighting the despot was fore-ordained on them, and they emerged in full determination to their destined abodes. But God will bring you with them before Him, you will submit your arguments and He will judge in the dispute".

Ibn Zyad saw with her a child, and asked him: "Boy among the captives, what is your name?" He said: "Ali Ibn Al-Hussain". The tyrant asked: "Didn't God kill Ali Ibn Al-Hussain?" The boy replied: "I had another brother, also named Ali, who was killed by a human being". Zyad insisted: "It is God who killed him". Ali said: "It is God that takes the souls (of men) at death" (XXXIX:42). "Nor can a soul die except by God's leave" (III:145). The tyrant ordered that the boy be killed. His aunt, Zainab, took him to her bosom and insisted either she be killed with him or he survive with her. She addressed Ibn Zyad saying: "Haven't you yet satiated your thirst for our blood?. Or have you spared one of ours from this slaughter you had staged for us?" He then said to his guards: "Let the boy go unhurt with the women"

Taken as an example of steadfastness against the tyrannical rulers in all times, as embodied in Yazid Ibn Muawia, Zainab had endured hard tests but held on to moral distinction, dignity and responsibility towards the society of which she was a part. She was driven with the captives' procession in company of the cut-off heads of the martyrs. Yazid uncovered the dead face of Imam Al-Hussain and ridiculed him by reciting two verses of poetry. The women started crying, but Zainab replied to the tyrant, saying: "O Yazid, it is the truth that God has revealed: "In the long run, extreme Evil will be the end of those who do evil; for that they rejected the Signs of God and held them up to ridicule" (XXX: 10). "O Yazid, you were lured by your insolent conceit, you saw the whole world falling into your hands. But it is God who granted you a temporary delay. He said: "Let not the unbelievers think that Our respite to them is good for themselves. We grant them respite that they may grow in their inquity; but they will have a shameful punishment" (III: 178). Is it fair that you keep in their homes your daughters and slave-girls, and drive out the daughters and relatives of the Prophet into captivity after you have desecratedtheir privacy and suppressed their voices. You drove these

distressed women on the backs of camels from town to town on display to all near and far people without having a man of theirs at their side. O Yazid, you with those who supported your overtake of the rule of the Believers will realize that God is the Supreme Judge, that our grand-father, the Prophet, is the adversary, and your innermost feelings are witness against you so that you "will at length realize who is worst in position and (who) is weakest in forces" (XIX: 75).

Sayyida Zainab, with other captives, was taken to Medina where she began giving to the whole Umma an eyewitness account of the holocaust and baring the despotism of the existing rule. She had always in mind God's order: "God loveth not that evil should be noised abroad in public speech, except where injustice has been done" (IV: 148). Fearing the outbreak of an upheaval as a result of her presence and speeches in Medina, the ruling authority decided that the women and children captives be dispersed in remote Islamic lands. Zainab categorically refused to give up or accept the government's decision: "The best of us were killed, and the rest were driven out as animals. By God, we will not leave even though our blood is shed".

All these Mujahidats were morally qualified to conduct social activities and strive in the cause of Allah because they were operating among blessed people about whom God has said: "Among the believers are men who have been true to their covenant with God" (XXXIII: 23). Taking part in social affairs and holding fast to their dignity and chastity did not abolish the provisions of Islamic texts prohibiting them from meeting in private with aliens or travelling alone. This was evident even during their participation in military conquests beside their busbands, fathers or brothers. This right is hard to be fulfilled with the present concept of modern Armed Forces where too many deviant soldiers and officers may induce woman to corruption and moral degeneration. If her participation is conceived to attain honest ends, it should be exercised through honest means. Also Islamic Jihad, with its legal sanctions, cannot alone be considered a complete exercise of all women's political rights. Muslim societies should first be purged from all aspects of corruption, sedition and moral degradation so that woman can eventually take part in social affairs in full honour and dignity. Let us remind ourselves of that fact stated by a Western thinker, Dr. Alexis Carrel: "We are all imbued with irresponsibility because we do not discern between good and evil". We must therefore differentiate between what is permitted and what is prohibited before imposing on women other obligations which may strike a fatal blow to the Islamic family institution.

In short, woman is not prohibited from exercising her political rights, i.e. to elect and be elected to people's assemblies and other councils, provided that such activities do not undermine the legal sanctions forbidding woman's meeting with strange males in private, wearing un-Islamic dress and travelling abroad without the company of a relative of prohibited rank.

CHAPTER FOUR

MAN AND WOMAN: EQUAL BUT NOT THE SAME



1. Equality and differences between human beings

Throughout the history of man's development, the class system and the widening gaps among people were an inevitable fact of human life. Plato, the ancient Greek philosopher, considered the class system as idealistic , and the Roman Empire was its typical embodiment. In medieval Europe, beside nobility and lay people, the church was so powerful and rich that it conferred might on kings and sustained its own armies. With the economic development, the emerging bourgeosie led the French Revolution which declared the theoretical principles of liberty, equality anf fraternity.

Marxism was, in theory, a revolt against the class system. In practice, the 1917 Revolution led by Lenin was aimed at establishing the rule of the working class (the proletariat). It ended, however, with the fully-fledged dictatorship of the state represented by the Communist Party on behalf of the working community. Membership, at times, did not exceed 2% of the total population of the Soviet Union (1). Without any regard to the people's thoughts or aptitudes, the Communist Party ruled as a distinctive class at the top of which rested the powerful members of the Central Committee. Powers may also converge in one man's hands. He uses an iron fist to govern over a subservient people. An official Communist organ (PRAVDA) plainly described Joseph Stalin in these words: "You have created man, made our land fertile, and gave spring its blossoms and roses" (2).

Communism did not eradicate the class system, but replaced it with other types of prerogatives. Stalin himself revoked the principle of equal wages and introduced extra wages in return for overtime work. The Soviet Treasury returned back to the world monetary system after it had been abolished in Communist Russia for some time. In 1963, it was reported that five senior responsible workers in Leningrad had embezzled large sums of money equivalent to US $ 1.8 million. Some type of private wornership of land was adopted to solve the problems of agriculture and food production, as related by "Pravda" in an article by A.D. Zolin, a Russian Economist. It was not my intent to explore the types of class systems in the contemporary ruling regimes, but communism is over-emphasized because it allegedly claims that all differences between classes have been abolished, whereas Capitalism has always asserted its maintenance of the class system.

1.1 Islam and Differences Among Human Beings

Islam's order is based on foundations that are strong because it does not

(1) In the 1947 census, the Soviet Union's population was 190 million; out of them, 6 million were members of the Communist Party.

(2) PRAVDA, issue of 28.8.1936.

ignore the relationship between human nature and this worldly life, with their ensuing differences, In essence, Islam states that all mankind are equal in their origin: "O people! Reverence your Lord who created you from a single soul" (IV: 1) and the Prophet said: "You are all sons of Adam, and Adam was (created) from dust".

Let us now consider the attitude of Islam towards human differences which no thinker or system has denied.

Throughout the whole range of human history, there have been poor, rich, indifferent, labored, weak, strong, ill and healthy people, Such differences which deeply affect the career and course of life of an individual, are recognized as facts by Islam since God is the Lord Creator and All-Knowing about the instincts, characteristics, and capabilities of His creatures. He laid down for them the rules necessary for the continuance of their good life. But these differing characteristics between races were made only to foster mankind's brotherhood and integration. God said: "O mankind! We created you from a single couple of a male and a female, and made you into nations and tribes so that ye may know each other; verily the most honoured of you in the sight of God is the most righteous among you" (XLIX: 13). These differences should not be reason for the human race to despise each other or to give one class full legislative rights and prerogatives over other classes, because all people, in the end, are equal before God and he who is most righteous among them shall get most honour.

However, such differentiation does not justify any special privilege as far as man's rights and responsibilities are concerned. The Prophet said: "We do not assign to governorship anyone who demands it or endeavors to capture it".

Differences in wealth my be basically attributed to varying human capabilities, because the hard-working and energetic man is not equivalent to the idle and sluggish one; exactly as light and darkness, or life and death cannot be held equal. Acquisition of wealth is therefore a function of differences in talents and abilities, both physical and mental, if matters of life are left to take their natural course without the intervention of brutal or oppressive powers to re-distribute wealth according to its whims or man-made systems. Those differences in gifts were stated by the Holy Quran: "God has bestowed His gifts of sustenance more freely on some of you than on others" (XVI: 71). This superiority is far from being cause to create classes, despise others, spread evil and oppression among men of inferior gifts. Islam laid down strong rules to prevent such differences from cropping up as divisive factors. Among these rules is the State's authority to allot, in cash or in kind,

the means to secure an honourable life for those who are unable to earn their living. The law of "Protected land" prevented the wealthy from taking over any open lands - as commonly practiced during the pre-Islamic Era - and allotted such lands to the public services and utilities to the benefit of the needy, the oppressed and the disabled. The Holy Prophet had reportedly distributed some plots of the protected land to some of the first Muslims who owned no means for their living, such as Al-Zubair Ibn Al-Awam, Bilal Ibn Al-Harith, Amr Ibn Harth, Abdul-Rahman Ibn Awf, Omar Ibn-Khattab and others.

Islam also encourages the deprived people to own the land which they reform and render cultivatable. Imam Ahmad and Nassai reported that the Prophet said: "Anyone who revives a dead land should own it", and Al-Bukhari also reported that he said· "Anyone who cultivates a no-man's land fully deserves to be its owner".

It is noteworthy that opportunists had taken some outward semblance to confuse Islam's private ownership of the land with the feudal system which prevailed in Medieval Europe. In Islam, the land should be appropriated by the State to the old, the disabled and those who prove unable to earn their living, in order to keep a general equilibrium in the distribution of wealth in the society. This was commanded by God: "What God has bestowed on His Apostle from the people of the townships belongs to God, to His Apostle, and to kindred and orphans, the needy and the wayfarer in order that it may not merely make a circuit between the wealthy among you"(LIX: 7).The European Feudalism was a perpetual system of serfdom wherein a landlord enjoyed full executive and judicial powers over his peasants. He owned the land with all tenants, cattle and tools thereon. A peasant had no right to shift, of his own free will, from a feudal land to serve another master, because Feudalism entitled landowners to sell their vast lands together with their tenants and all other resources.

Here, Islam admits no servitude to man and urges all Muslims to combat all forms of bondage and oppression: "And why should ye not fight in the cause of God and those who are oppressed men, women, and children" (IV: 75). Muslim landowners should not become a distinctive, propertied class, nor exercise extraordinary powers and prerogatives over agricultural workers. When Caliph Omar Ibn Al-Khattab knew that Bilal Ibn Al-Harith was not fully exploiting the land appropriated to him by the Prophet in Al-Aqiq Area, he warned him that he must cultivate a portion of the land commensurate with his capability and consign the rest to the State Treasury. "The Holy Prophet did not appropriate this land to you to withold it from other people, but to work on it, so take from it as far as you are able to

cultivate and give back the rest" Omar said. This was to prevent a landowner from using his fief to exploit the oppressed and needy or to retain it for his own interest. As a general remedy for such cases, Caliph Omar issued a decree prescribing that "a man who cultivates land which has remained unserved for three years, shall be its owner".

Among the rules laid down by Islam to keep social life evenly balanced, are the distribition of inheritance and the system of alms (Zakat). In the Islamic inheritance system, the property of the dead is proportionally bequeathed to his relatives so that none of them is deprived. Among inheritants there will be the helpless children and aged, beside others who are unable to earn their living.

The proceeds of Zakat, or regular alms-giving specially earmarked for the poor, should be distributed to Muslims who become provisionally or permanently unable to earn their livelihood, those who are in debt and unable to free themselves from their liabilities, those who are stranded in foreign lands and in need of help. The rich should not seek fame upon fulfilling this duty because alms-giving is not a charitable act which depends on the contributor's whims and desires. God commanded His Apostle: "Of their goods, take alms, so that you might purify and sanctify them" (IX: 103). All goods belong initially to God. But as man is His vicegerant on Earth, he was made guardian of this part he owns in this world in order to set up the rule of God and implement His commands, including the Zakat giving. God said: "And give them a part yourselves out of the means which God has given you" (XXIV: 33) and also said: "And spend in charity out of the goods whereof he has made you heirs" (LVII: 7).

History bears witness that Islam did not separate moral values from practical considerations. For, when the Islamic State expanded beyond the limits of the Arabian peninsula, it did not use the Zakat system as a means of exploiting the newly converted communities, collect their goods and accumulate wealth in the Capital city at the cost of their misery and suffering. The Muslim Ruler of Iraq wrote to Caliph Omar Ibn Abdul-Aziz saying that the Zakat contributions were considerably in excess, and that he could not find any poor who would accept it from him. The Caliph ordered him to first satisfy the needs of the people and their families and children. If there remained a surplus, some should be allocated to marry those who were unable to enter into wedlock for whatever reason, and some to assist even non-Muslims to build their homes. Caliph Omar Ibn Abdul-Aziz also wrote to Zakat collectors in the different Muslim countries to "pay people's debts from the Public Treasury". They replied that "every man in the country owns a house, a servant, a horse for his transport and enough furniture in his

home". The Caliph once again wrote them: "These are basic necessities required by every person and should not preclude the payment of their debts".

There are many excellent examples from the practical life of early Muslims who sought to attain the ideal stage implied in Islam's teachings. The Quran says: "Our religion is the baptismal colour God, and who can baptize better than God" (II: 138).

2. Causes of differentiation between the two sexes

The wisdom of God in His Creation prescribed that life in the universe should be based on specialized physiological functions. He thus created everything in pairs, and made for everything its counterpart. God said: "With Power and Skill did We construct the Firmament, for it is We who create the vastness of space. And We have spread out the Earth; How excellently We do spread it out. And of everything We have created pairs. That ye may receive rememberance" (LI: 47-49), and also said: "Glory to God who created in pairs all things that the Earth produces as well as their own kind, and other things of which they have no knowledge" (XXXVI: 36). According to this principle of specialization, Islam has clearly demarcated the sphere of work for man and woman. Man was entrusted with responsibilities consonant with his nature and potentialities. He was charged with the family headship with the duty of working to support and provide the necessities of life for his wife and children. Woman was vested with the duties devolving on her in accordance with her physical constitution, namely the procreation and upbringing of man's progeny.

This division of labour was not a result of mutual agreement between the two sexes, or a compromise springing from the struggle and victory of one party over his counterpart. It is rather a natural sequel of God's Creation of man and woman with different physical constitutions, psychological frameworks and mental dispositions. So, man was not endowed with motherly feelings while woman cannot feel at ease in the rough outdoor professions. God said: "And in no wise covet those things in which God has bestowed His gifts more freely on some of you than on others: To men is allotted what they earn, and to women what they earn" (IV: 32) and said: "Men are the protectors and maintainers of women" (IV: 33)

God has laid down for mankind a system of life which "no falsehood can approach from before or behind it" (XLI: 42). It holds that as human beings, man and woman are quite equal in the rights and duties devolving on them because they were created from the same essence: "O Mankind! Reverence your Lord who created you from a single soul, created of like nature his mate, and from them twain scattered countless men and women; And reverence God through whom ye demand your mutual rights and (reverence) the

wombs (that bore you), For God ever watches over you" (IV: 1). The Holy Prophet said: "All people are equal like the teeth of a comb, no preference for an Arab over a Persian except by piety and righteousness" and he also said: "Women are the exact counterparts of men".

Starting from the rule of equality between man and woman in their origin, their abode and their accountability before God on the Day of Resurrection, functions were allotted to each in consonance with their physical dispositions. Man has been given the duty of caretaker or propof the family and his progeny should bear his name. Woman was allotted the duty of turning the family home into a haven of peace and blessings in addition to procreating and bringing up the new generation. She was therefore endowed with tenderness, kindness, and impressionability. Equality in islam is thus in force whenever there are natural grounds for it, but differentiation is also effected should it be in line with human nature. Among such differentiations, two are outstanding. The first is the system of inheritance where God revealed: "God directs you as regards you children, to the male a portion equal to the share of two females" (IV: 11). The second is the principle of woman's evidence in business and debt transactions where God ordered: "And get your witnesses out of your men, and if there are not two men, then a man and two women, such as ye choose for witnesses, so that if one of them erreth, the other can remind her". (11: 282). It is true that manhood and womanhood were the main cause of differentiation between man as head of the family and woman as mother, but they did not motivate the differences in the distribution of inheritance and the evidence of woman before the judiciary.

It should initially be borne in mind that woman's share of inheritance is not, in all cases, worth half of what man's share is worth in inheritance. For Islam had given equal shares to the father and mother of the deceased, while his daughter was allotted a far greater share.

God said: "If she is only one, her share is a half; for his parents a sixth share of the inheritance to each" (IV: 32). It is wise therefore to state that the financial obligations shouldered by the man, his responsibility to support his wife, children and parents, besides the expenses incurred in wars and hsopitality clearly justify his "portion equivalent to the share of two females". A woman is supposed to spend her share on her own person.

In the second situation, God had already shown the reason: "So that if one of them erreth, the other will remind her". So the condition of the evidence of two women was made in fear that one could digress from the real facts. In the presence of another woman, we are sure that the second will

remember if the first is confused, especially since financial debts and economic transactions are not a woman's specialization. Let us remind ourselves that Islam stipulated for the evidence of the crime of adultery that it should have been seen by four male eye-witnesses. This was not to show man's incapacity as an eye-witness, but God's wisdom prescribes that punishment should not be inflicted in a hurry and that the dignity and reputation of a woman should be preserved from malicious or suspicious accusations. The Prophet once addressed women on a day of feast: "I have not seen any others than you, women, who were endowed with lesser mind and Faith, who can disturb the mind of a wise and decisive man" (related by Al Bukhari under "Menstruation" and Muslim under "Alms giving" No. 1/61). This was a kind of figurative eloquence aimed at exalting women's intelligence and faculties, even though their evidence is worth half that of a man's for the aforementioned reason. Here, also the Prophet dubbed a woman as having been given "Lesser Faith" because of menstruality which prevented her from performing the daily prayers and fasting during the month of Ramadhan. In this metaphorical expression, the Holy Prophet would not undermine woman's faith and belief in God and Islam, because woman's courses do not occur by her will since she is ordained as are all women, to the natural functions of motherhood and child-bearing.

The laws and dictates of Islam were not laid down by either man or woman so that one might think they have filled them with personal prerogatives and special interests. Rather, they were revealed by our Guardian-Lord, Creator of man and woman, and necessarily All-Knowing about what fits better for the reformation and development of humanity, His own handiwork. God said: "Should He not know what He created? And He is the one who understands the finest mysteries and is well-acquainted with them" (LXVII: 14).

Many European opportunists have, for some time, identified themselves with Islam in order to spy on Muslim rulers and monitor the implications of Islam's teachings in the social life of Muslims. Among them, Leon Roche, a French philosopher, wrote the following impressions in his book: "Thirty years in the fold of Islam": "I embraced Islam to be able to enter in contact with Emir Abdul Kader as a French spying agent. I was so successful that he soon assigned me as his secretary. In this atmosphere of intimacy, I discovered that the Religion of Islam encompasses a whole range of humane, natural, economic, legal and literary aspects. All kinds of man-made laws of out present times are found in its Holy texts. Even the law termed by Jules Simon as "the Law of Nature" appears to be entirely derived from the Islamic Code or Sharia which has spiritually and mentally affected the Muslim community. Everywhere, you can find those spirits are a true embodiment of

courageousness, honesty, kindness, generosity, goodness, truthfulness and beauty exactly as the ideals dreamt of by European philosophers. This is a world which despises evil, malice and falsehood. Islam teaches its followers not to suspect other people, nor to permit for themselves what is prohibited as far as earning their livelihood is concerned"

A true Muslim believes that his Faith is the message of Justice, Truth and Righteousness. He develops this inner belief regardless of any opinions expressed by Eastern or Western thinkers and philosophers whose allegiance was described in the Holy Quran by the tongue of Prophet Joseph as follows: "If not Him; ye and your fathers, for which God has given no authority. The command is for none but God; He hath commanded that ye worship none but Him; that is the right religion, but most of men understand not" (XII:40).

From the above we can conclude that Islam recognizes equality between man and woman where there are natural grounds for it. The Holy texts of the Quran and Sunnah do not differentiate between them on the basis of one's superiority over the other, but entrusted them with rights and duties in accordance with their physical constitution, economic responsibilities and social framework.

2.1 The Nature of Equality Between the Sexes

In implementation of the United Nations' decision establishing 1975 as "International Women's Year", a large number of seminars, symposia and conferences were held at local, regional and international level. The main theme was "the position of woman in society and the reasons for her backwardness". The climax was marked by "The Women's International Conference" held in Berlin in October of the same year at the invitation of "the World Women's Democratic Federation". More than 2,000 delegates from all parts of the globe attended this most peculiar convenience.

In a special issue of the monthly magazine: "The World of Thought" published by Kuwait's Ministry of Information in April 1976, an editor briefly surveyed this occasion in the following words: "The conference had noted that woman was still lagging very far behind man in all spheres in spite of the reported advances and gains she had realized. The ratio of working women to those who are able to work around the world hardly attains 46%. It decreases in Latin America to only 20% and rises in Europe and USA up to 35% and in USSR to 50%. In Africa and Asia the rate is around 30% particularly because of woman's participation in farming and agricultural activities".

Accusing women who prefer childrearing and family life of being unproductive, he comments on the above rates saying: "Their only meaning is that huge numbers of female manpower are inert and knowingly refrain from

any contribution in the production process within their respective societies". He finally praised an old Iranian Law of 1967 "The Family Protection Law" which provided for women's right to work out of their homes in disregard of their husband's consent; and described it as "a daring step, a round which the women in the developed countries had won".

Such opinions and inclinations tend to rely on the idea of perfect equality between the sexes. It would be wise to note that old as well as modern thinking previewed that equality should be between equals. Equality is in no way applicable to unequals, especially if it could affect the rights of a husband, children, work superior or the whole family system. It is a first rudiment of jurisprudential logic that equality excepts no individual or group from a certain right granted to all equals. An implication of all people's right to work, for example, is the invalidity of any law or decree banishing an individual or a group from a specific occupation. But this does not give a student the right to be viewed professionally as equal as the instructor, nor the nurse as the general practioner. Here, equality prescribes that rules of recruitment be laid down to determine the conditions required to ensure good performance, and high credibility as the qualifications, past experience, and clearance from criminal precedents and contagious diseases. Such safeguards are no breach of the principle of equality which instinctively does not give all people the right to simultaneously assume the chairmanship of a public department, nor does it rescind the right of respectability and reverence due to our older generations and teachers.

Those who are Westernized and minators of alien lifestyles among Arabs and Muslims at large have wronged the self-evident facts of human nature and physical dispositions of man and women. They blindly follow the footsteps of Islam's antagonists who took the enemy's side either through ignorance or by arrogance. An Arab woman parroted these ideas of her Western masters at an international conference held in Toronto in 1969: "Islam has reduced woman to the role of housemaid in the family. It gives no equal rights to the husband and wife nor to any man and woman in work and social life" (3). Such shameless Statement clearly betray her ignorance of the real mission of Islam in human life.

Reflecting the same erroneous concept of human progress and world civilization, an Arabian magazine (4) made the following comparison between woman's position in different parts of the world: "The gap is widening considerably between her status in the developed and the developing countries. Woman, in the latter, still suffer from man's injustice

(3) Aziza Hussain, Egypt's delegate to the 1969 Women's Conference, Toronto, Canada.
(4) Supplement of "Al Arabi" monthly magazine, March 1975, by Salim Zabalawi.

and tyranny. Subservient to man who dominates her life, she rather lives under the same conditions as those of medieval feudal system or the Ancient Roman and Hellenic slavishness. As a result, she feels as a second class citizen in a apartheid regime in South Africa or Rhodesia. Woman in the developing country badly needs a revivalist movement so that she may achieve some of what her Western counterparts had concretized".

It is sure that such writers are ignorant of the devilish motives of woman's claims of emancipation and equality in Europe. (See the two previous chapters on woman's right to ownership and legal entity). They also overlook the fact that Islam had, in practice, granted both man and woman evenly-balanced rights and duties. In a good example of the Prophet's Seerat, his wife Aisha reported that he treated her on an equal footing with himself. "After an angry discussion between the Prophet and me, we approached my father Abu Bakr to judge between us. The Prophet asked me: "Shall you begin or shall I talk first?" I said: "You begin, but say nothing but the truth". Abu Bakr was embarrassed by her way of addressing the Holy Prophet. He said: "O enemy of your own soul! Did the Prophet ever say anytning but the whole truth?" The Prophet intervened in objection: "This is not why we approached you, not is it (the way of arbitration) we have sought".

But such equality does not mean that the Islamic laws and doctrines are a mere tool manipulated by a certain school or class to consider man and woman as perfect equals where there is no ground for it, because the variations of physical constitution and social burdens will dictate some kind of differentiation so that a realistic equality is achieved. In accord with this concept, God vested man with the family headship and entrusted woman with child-bearing and upbringing. These differing functions devolving on them are quite in line with their nature and framework where any call for equality will be ridiculous or, rather, impossible. To delay or inhibit the motherhood functions through means of birth control, allegedly to eradicate the reasons of backwardness and reach perfect equality with man will, of course, lead to the extinction of mankind which goes against human's true malleable nature and beyond his potentialities. In her capacity as mother, woman — it was stressed by Islam — deserves being served and respected because God has entrusted to her the objective of preserving the human race and its values through the conception, birth and rearing of the new generations.

2.2 Emancipation of European Woman

The European woman's emancipation movement pivots on her claim to get an independent economic and legal entity from man, her husband, so that she can be free from bearing his name at marriage and from subjecting the disposal of her own property to his consent. None of these claims can be a

true expression of a Muslim woman's obsessions, because Islam has given her these rights and more. So, is there any reason for all the present uproar and thoughtless rebellion of women, just to imitate European societies and parrot their slogans with a sense of frivolity and emptyness?

These Westernized reformists and champions of woman's emancipation have deliberately ignored the fact that the present woman's revolt is a pertinent reaction to the iniquities inflicted on her during many centuries. They forget that woman in Europe had been looked upon as the source of sin, treated as a slave to be trafficked in, given away and inherited as all other chattels. Herbert Spencer had placed on record that the Laws in Europe gave a husband the right to sell his wife, until this tradition was abrogated in the 11th Century A.D. when a Law to "protect women" prohibited such shameful traffic but left unchanged other injustices.

Women, still feeling no advance in their cause, campaigned for their own liberation. They revolted against their role in the creation and perfection of human generations and, instead, they patronized social corruption and exhibitionism. This civilization, which differentiates no more between what is permitted and what is prohibited, has shocked many Western thinkers. Among them, Dr. Alexis Carrel had to say in his book "Man the unknown": "All are imbued with irresponsibility. Those who discern good and evil, those who are industrious and provident remain poor and looked upon as backward. The woman who has several children and devotes herself to their education instead of her own career is considered weakminded. Despite the marvels of scientific civilization, human personality tends to dissolve".

It is therefore high time for those who have Westernized themselves and blindly imitate the West to adhere to the teachings of Islam which provides enlightment and deep insight into all spheres of human nature and life. They should eventually stay away from the Western patterns of social contamination because they have sprung up from void disequilibrium and wretchedness. God said: "And God has full power and control over His affairs, but most among mankind know it not" (XII: 21) and He also said: "They know but the outer appearances in the life of this world; but of the end of things and the Hereafter, they are heedless" (XXX: 7).

3. Impact of Blind Imitation

Many among our thinkers and educated youth - due to their wrong perception of the question of equality between the sexes and their ignorance about Islam's teachings and instructions - have adopted a view that is antagonistic to Religion and have inclined to thoughtlessly follow the footsteps of non-Muslim doctrines. In a farsighted prophecy reported by **Imam** Al-Haki, the Holy Messenger of God said: "You will skid, inch by

inch, and foot by foot, away from your ancestors' traditions till any one among you sees another who enters a lizard's hole, he will blindly follow him in, or who has sexual intercourse with his wife in the street, he will indecently imitate him".

The superficial concept of human nature has dragged man and woman to a closest point to animalism. Also their desire to shatter the values of Islam has given rise to Muslims' protests against giving such vast importance to a so-called "woman's cause". The International Women's year, it was alleged, marked a new turn in the history of the fair sex and a successful start for woman's emancipation from the shackles of motherhood and matrimonial life so that she may compete with man in his rough spheres of activity. Her true role, it was postulated, is not in managing the household, procreating the new generation or looking after her family. Marriage became a life disaster and children a nuisance to her liberty. Woman was thereby encouraged to leave her home and work in factories, consumer stores, night clubs and coffee houses, public and private offices, T.V. and theatre shows, with a prejudiced claim that equality signifies doing similar work to man.

Notwithstanding the fact that the Westernized Arabs and Muslims have sought to imitate only the bad examples of corruption and moral degradation of the Western societies, it should be emphasized that such was not at all the objective of the International Women's Year in 1975. The idea was initially conceived as a desperate effort to alleviate the dominating social injustices inflicted upon the Western woman. She is overworked, with less pay than man, and denied the right to keep her maiden name or dispose of her own property after marriage. Her emancipation movement turned into a lack of domestic peace, disintegration of family life, and skyrocketing rise of professional and amateur prostitution. Men and women, whimsical and capricious, disliked the marriage bonds. Divorce rates became as high as 60% in Sweden, 40% in the USA, 39% in Denmark, 30% in East Germany, 28% in the USSR and 28% in Finland. Sixty percent of French divorcees are working women, while 22% of divorce cases in East Germany are caused by violation of the marriage-bed, 10% by drug addiction and alcoholism (5). The U.S. statistics further showed that 84% of married men and 40% of married women had sexual intercourse before marriage, while 40% and 25% of the married men and women, respectively, violate the marriage-bed regularly (6).

In such societies which deify the carnal desires, commercialise woman's body and destroy home and family life, children are caught in their parents' moral degeneration. 13 to 21 per thousand of U.S. children are beaten to death. In West Germany, 2,000 such cases are filed annually in which 10% of

(5) West German magazine "Stern", 14.8.75, pp. 20-22.

(6) Paul Viceroy: "History of World Customs", Munich, 1975, pp. 224 & 236.

the molested children die. Thirty-three percent of these innocent victims are under six years old, while another 54% are aged between 6-14 (7). The crimes committed by minors under 14 in West Germany went up from 40,000 in 1963 to 72,000 in 1970. And in the USA, their rates rose to 87% between 1966 and 1971 with an average of 55% of the total robbers and 47% of criminals under 21. In 1973, there were 38,000 illegitimate births (8) out of 547,000 newly-born infants (7%) in West Germany, where children became such an unwanted commodity that death rates exceeded births by 108,000 persons in 1974 (9).

The only full right which Europe offered to woman, i.e. her right to work, is widely exercised in the industrialized countries. In West Germany, around 30% of the total woman population above 14 work in factories and 39.5% in offices and private concerns. They compete equally in men's careers but have less wages and seldom have accessibility to higher positions.

The woman's right to be active in political life - a major target of equality and emancipation movements - remained far less realized in most industrialized countries. In West Germany, woman's ascent to Senior State positions did not exceed 0.8% of the total female work force.

Is this the kind of liberation our Muslim women are campaigning for? Is it the kind of liberation required in our societies to achieve a dignified life, transcendant morals, sound progress and strong brotherhood in the way enjoined by God? There is no doubt that both Muslim men and women today need to rid themselves of blind imitation and subservience to the Eastern and Western patterns, and liberate themselves from the darkness of poverty, ignorance, social injustice and political repression. They need to accurately apply God's commands and shoulder their role in calling to the Religion of Allah exemplifying the Muslim's independent personality and setting up the right and pious family life deeply rooted in Islam's glorious past and aware of the realities and requirements of the present times.

Islam rejects any such ideas that reduce woman to a mere tool of sex marketeers under the deceitful name of civilization, or debase her to be exploited by industrialist employers in the name of human progress, or degrade her to the status of concubines whose bodies are cheaply commercialized in the markets of the 20th century slavishness. That is because Islam liberated her from servitude except to God; gave her, in theory and in practice, an equal human status, and vested her with rights and duties consonant with her disposition in order to save her from being sunk in dishonour and immorality.

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(7) West German newspaper "Der Spiegel", 21.3.75, p. 42.

(8) "Yearly Statistics", Fisher Publishing House, Edition of 1975, p. 67.

(9) West German newspaper "Der Spiegel", 24.3.75, p. 42

4. Islam and Equality Between Man and Woman

Islam laid down for the society and the family a well-defined system, relevant to all times and climes. Strictly following this system improves and reforms human life in time and space because it was designed by the Lord-Creator of the whole universe who is All-Knowing about man's conditions and dispositions. God had, from the start, warned us against drifting towards man-made slogans to the neglect of the Divine laws and rules. He said in the Holy Quran: "So judge between them by what God had revealed, and follow not their vain desires, but beware of them, lest they beguile thee from any of that teaching which God has sent down to thee. And if they turn away, be assured that for some of their crimes, it is God's purpose to punish them. And truly most men are rebellious" (V: 48). God also forbade us from using our faculties to compete with His wisdom: "It is not fitting for a believer, man or woman, when a matter has been decided by God and His Apostle, to have any option about their decision. If anyone disobeys God and His Apostle, he is indeed on a clearly wrong Path" (XXIII: 36).

In Islam, the family system is based on solidarity and cooperation between husband and wife, parents and children. Infighting and power struggles are prohibited since Islam views all mankind as descendants of one father and mother, and basically tied by a universal brotherhood. He who assails an individual is held to be assailing all humans. So, comparatively, he who instigates a struggle between men and women, parents and children, haves and have-nots, is said to perpetrate animosity, hatred, and corruption between all the world's peoples. God said: "If anyone slew a person - unless it be for murder, or for spreading mischief on Earth - it would be as if he slew the whole people. And if anyone saved a life, it would be as if he saved the life of the whole people" (V: 32).

It is doleful that some doctrines were based on the continuation and inevitability of such infighting. Attacking Islam and its family system, they exhort the women of the Orient to join in the revolt "against religion's bonds" and take, in the name of emancipation and equality, a collective decision with respect to their role in the society. Moreau Berger disclosed in "The Arab world today" that calling Muslim women to participate in the socio-economic life will bring about significant alterations in family and social life: "If they are allowed to freely express their latent potential, these ambitious women will contretize radical changes which will shake the underpinnings of the Islamic society in its entirety and forever". But it is also heartbreaking to note that large numbers of educated women were deceived by such frail slogans and flimsy doctrines though it was repeatedly stated that the Western motives for emancipation can find no justification in the Muslim

societies. From a historic view-point, we have seen how the Roman Law - the main source of French and other European legislations - looked down upon women as incapacitated creatures to be treated legally exactly as children. They were given no independent status and their guardian's authority included his right to dispose of their own property. Amendments effected by the French Revolution brought to women a nominal equality since Article 217 of the Civil Code prevented a married woman from any donation, transfer, mortgage, or ownership of property without her husband's participation as a party of the contract or his prior written consent thereto.

In Hinduism, the ordinance of Manu showed the same tendencies as Article 147 thereof which stated that "By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house", while Article 148 stressed that "in childhood, a female is subject to her father's guardianship, and later, to her husband. When her lord dies, she will be subject to his sons, or his next of kin, for a woman must never be independent". Also the teachings of the Ancient Greek, Egyptian and Chinese civilizations reveal many extreme views on the issue of woman in society. Such mistreatment was also reflected in old religions. Verse 21 of the Book of Genesis of the Torah banished daughters from inheritance in the presence of male offspring. In the Civil Status Law for Israelis, laid down by Jewish scholars and, until recently, applied in Egyptians mixed courts, stated that "a widow, in the absence of male children, should marry the brother of her dead man and shall be to nobody but him unless he dissolves this wedlock"

The kind of equality called for by non-Muslim societies is but a natural reaction to such extremes which prevailed in the extinct past as they are in the west at the present time. A married woman is still deprived of a legal entity as far as her own property and maiden name are concerned. In her struggle for an independent status, Western women transgressed all bounds, swept away all ideas of purity and chastity, and denied themselves a close family relationship structured solely on mutual affection.

Muslim women did not experience such disturbance of mind, because the Islamic family and marital system, as a divine revelation and Godly way of life, was not a matter of trial and error, nor influenced by human whims and desires. The comprehensiveness of Islam was reflected in the completeness of its patterns concerning mutual relations of the sexes. God said: "Such is the artistry of God who disposes of all things in perfect order for He is acquainted with all that ye do" (XXVII: 88). The outcome of Islam's teachings was manifested by Muslim women over all periods of Islamic History in their readiness to sacrifice all, even the marital ties, for their pious belief and religious devotion. Imam Muslim reported that the wife of Abdulla Ibn

Massoud came to the Prophet to complain that her husband asked her to withhold a portion of the regular Zakat she used to give because their children needed this money. She said: "Ibn Massoud claims that he and his children deserve Zakat more than other recipients". The Prophet replied: "And furthermore, you will have a double reward: one for supporting your kin and one for alms-giving".

The Andalusian Jurist, Ibn Hazm, summed up woman's economic rights and independent status in these words: "The Muslim woman was entitled to possess houses, gardens and estates; engage in business, guarantee other parties, and give away whole or part of her dower to whom she wanted without any objection from the part of her father, husband or guardian".

The Prophet gave the best example of woman's wisdom and respectability in Islam. For when he was ordered to proceed to Mecca, unarmed, to perform the lesser Pilgrimage (Umra), he had to conclude a peaceful truce with the enemies of Islam in what was known as: "The Treaty of Hodaibya". Many of his companions, including Omar Ibn Al Khattab, objected to some unreciprocal clauses of the Treaty providing for a one-year delay in Muslims' entry to Mecca. They were also to slaughter their sacrifices in the Muslim camps outside the Holy city. When the Prophet called them, after the Treaty was concluded, to perform the Umra rites, he repeated his call thrice without any response from his companions who had taken an oath to conquer Mecca and gain martyrdom in the cause of Allah. Consulting his wife Umm Salma, she advised him: "Go straightway and utter not one word to any of them until ye have completed the rite and slaughtered your sacrifice". When the Prophet did, all his companions followed obediently. Praising the wise advice of Umm Salma, the Prophet said: "By your wisdom, O Umm Salama God has saved the Muslims from a grievous torture" (related by Muslim).

5. Limits of Equality and Emancipation

While in Islam, men and women were granted equal rights and duties in all matters where there are grounds for sound equality, women in non-Muslim societies were treated as slaves and trafficked in until late in the last century. The Universal Declaration of Human Rights emphasized all human beings' equality before law without any discrimination based on race, sex, religion, or language. Nevertheless, the principle of equality does not intend to treat on an equal footing in all spheres of life the educated and the illiterate, the studious and the sluggish, the specialist and the layman. Rather, it means that the State should enforce the Islamic Law indiscriminately on all citizens regardless of their colour, race or religious beliefs. No prerogatives of any kind. All people are given equal opportunities before the Law. Statutory regulations organizing individuals' activities and professions should be applied to all those who meet the required conditions.

Equality, similarly, does not imply that man has to replace woman in nursing, suckling and rearing, nor that woman is required to compete in tough careers and share men's functions and responsibilities because each has to be vested with duties which fit better his physical and psychological framework. Here, equality would be no more than outright chaos.

Long before, and even after, the Declaration of Human Rights in 1948, Western women had to struggle and use all their powers and weapons to gain equality with men. They endured all hardships and accepted the policies of consumerism and exhibitionism designed by social exploiters so that they may have in return an economic and political entity. But they still feel they are not totally enfranchised. Their emancipation was proved nominal and to the benefit of man. The Western woman still receives less pay for similar work, bears a new man's name every time she is married and holds no right to dispose independently of her own property.

Fifteen centuries ago, Islam granted the Muslim woman the right to redress all forms of injustice and refute the Ruler's decrees. When Caliph Omar once planned to set a limit on women's dowries "forty ounces of gold and excesses should be consigned to the State Treasury" a woman attending the prayers at the Mosque opposed him and recited the Quranic verse: "Even if you have given one of the women a whole treasure of dower take not back the least bit of it. Would ye take it by slander and a manifest wrong". Hearing this, Omar said: "The woman was correct and the Caliph mistaken" (related by Ahmad 1/57 & Tirmizi 4/355)

She was merely one of the woman-folk, relying on no individual or tribal power to protect her, but she knew that it was a chief injunction of Islam "to utter the world of truth before the Ruler, even the most tyrannical". Though this story is proven true and correct in many references of the Prophet's traditions, it should not be construed as evidence for the guardians who claim extravagant dowries for their daughters at the risk of losing a good chance of marriage.

The Islamic concept of freedom leaves no room for any instigations (by Samuel Butler and anti-Islamic Western thinkers) forthe new generations to revolt against the traditions of their ancestors. Islam entitled a woman to refuse her father's choice, to direct her brother to the right path, and to remind her husband of the divine constitution of virtue and uprightness if he forgets or transgresses. She knows that Islam gave her a distinct economic entity though the responsibility of her sustenance was assigned to her father or husband. But in her role as wife and mother, Islam accorded her a lofty status along with respect and moral distinction. Within her family life, she, exactly as man, has a say as far as setting up the Supremacy of God's word and rule is concerned, because all Muslims were equally ordered to enjoin the right and forbid the wrong.

Imams Ahmad, Abu Daoud and Ibn Maja narrated, on the authority of Abdulla Ibn Bareira, that "a woman approached the Prophet to complain that her father had married her to his nephew against her will. The Prophet told her that she was free to accept or reject her father's choice. She then exclaimed: "O Messenger of Allah! I accept my father's choice. But I just wanted to make it known to other women that their fathers did not have the final say in a matter of their own".

The Holy Quran has also recorded a situation where sons are required to direct their parents if the latter err from the true malleable nature of man or go stray from the Straight Path of Allah. This was evident in the story of Prophet Abraham when he received spiritual enlightment beyond the physical world surrounding him: "Abraham said to his father Azar: "Takest thou idols for Gods? For I see thee and thy people in manifest error". But there should be a reason for the son to take such an attitude toward his father. Abraham, privileged by God to receive His Lights, explains the reason in this Quranic verse: "O my father! To me hath come knowledge which has not reached thee. So follow me, I will guide thee to the Straight Path" (XIX: 43).

Also many Muslim women were raised to a top rank of honour and dignity for their brave acts and proven courage. Nossaiba Bint Kaab had migrated to Medina with the companions and during the events of Uhud she resisted beside the Prophet when most of the Muslim warriors had left their positions and hurled themselves on the spoils. She stood firmly against the unbelievers who tried to reach the Prophet's quarters. When the battle ended, she had thirteen bleeding wounds in every part of her body. The Prophet told her son: Wrap her wounds and cure her" and recorded her acts of nobility and devotion: "Wherever I looked, to the right or the left, I saw Nossaiba fighting to defend me" (reported by Ibn Burhanudin in his Seerat p. 2/25 and Ibn Hisham p. 2/85).

Imam Bukhari also reported that following the Muslim Army's defeat in the Battle of Uhud, two women, Aisha and Umm Salim, were busy carring water skins on their backs to pour them out in the mouths of the exhausted fighters.

From the few examples cited above, we can perceive the nature, scope and limits of equality between the two sexes in Islam, and we can also conclude that Islam holds man and women equal wherever there are no physical differences. Keeping to these limitations, they are free to exercise their rights. But their freedom is strongly safeguarded and quite different from the Western and Communist concepts of unrestricted freedom which led women to a dreadful end, and tore asunder the ties of family, society and religion. Islamic freedom was revealed to discipline mankind, soul and mind, and guide them in the Straight Path of perfection.

CHAPTER FIVE

IMPACT OF DIFFERENTIATION BETWEEN THE SEXES

Islam and Differentiation Between the Sexes

Cause of Differences Between the Sexes

Islam and differentiation between the sexes

Mohamad, the Seal of the Prophets was sent with the message of Islam as God's Apostle to all mankind late in the sixth century A.D. at a period when the entire world was lost in 'Jahiliya', ignorance and darkness. The oppressed were totally deprived from the basic rights of human life, while women were the most degraded. They were looked down upon as the agent of the devil and were sold, donated and bequeathed in what seemed to be a concerted role in force all over the world.

Islam stressed that man and woman were created equals. It granted the Muslim woman rights and duties equal with man but not necessarily identical. The only difference is in the division of labour, because it takes into consideration the human nature, physical conditions and psychological framework. Many Islamic texts have explicitly recognized equality between man and woman in all spheres where there are grounds for it:

1. They are equal as human beings; God said: "O Mankind! Reverence your Guardian-Lord who created you from a single soul" (IV: 1) and the Prophet said: "Women are the twinhalves (exact counterparts) of men" (related by Ahmad, Abu Daoud and Tirmizi).
2. They are equal in the right of inheritance and ownership. Man and woman are equally entitled to inherit the property of their deceased kin. God said: "To men is allotted what they earn, and to women what they earn" and the Prophet said: "If I would have to make any preference this would be for women" (related by Al Shoukani, "Naylul Awtar" p. 6).
3. They are vested with equal duties and obligations. God said: "O Prophet! When the believing women come to thee to take the oath of fealty to thee that they will not associate in worship any other thing whatever with God, that they will not steal, nor commit adultery, nor kill their children, nor utter slander, intentionally forging falsehood, nor disobey thee in what is right" (XVI: 197) and said: "Whoever works righteousness, man or woman, and has Faith, verily, to him will We give a new life that is good and pure, and We will bestow on such their reward in accord with the best of their actions ((XVI: 197) and also said: "And their Lord has accepted of them, and answered them: Never will I suffer to be lost the work of any of you, be he male or female; ye are members, one of another" (III: 195).
4. They are also equal in receiving rewards and punishments for their deeds. God said: "In the Law of Equality, there is saving of life to you, O ye men of understanding, that ye may retain yourselves" (11: 179) and said: "As to the thief, male or female, cut off his or her hand, a punishment by

way of example, from God, for the crime, and God is Exalted in Power" (V: 38), and also said: "The man and the woman guilty of adultery, flog each of them with a hundred stripes" (XXIV: 2).

Cause of differences between the sexes

There is no doubt that man and woman were created equals, but they were not created identical, either in their physical constitutions or their psychological and mental dispositions. These differences are because they have been allotted different social functions: man to assume outdoor work and support his family, and woman to procreate and bring up the new generation. These functions dictate some distinctions between the sexes, although they do not affect their equality as human beings.

Dr. Gibb Hart says that no woman is free from an ailment of any kind during her menstrual courses. "Woman is really sick in menstrualities and had to endure these pains once a month, which inevitably influences her intellectual and mental framework." Dr. G.B. Sheaffer, in his work entitled: "Morris' Human Anatomy" reveals that the human brain in man is larger both in length and weight (+100 gms) than in woman. Dr. Fisher also states that even a healthy woman is subject to severe psychological turpitudes during her pregnancy. She suffers from temporal absentmindedness and unstable humor which causes her faculties of thinking, contemplation and reasoning to be disordered (1).

Moreover, Islam does not base on these differences any legal consequences which may undermine the position and rights of the woman. Islam has differentiated between man and woman wherever equality appears to be undesirable or unjust. This should not give rise to some accusations that Islam reduced woman to inferiority and subservience to man. It is most important to understand that Islam granted both man and woman equal rights and responsibilities, but had to discern between their functions making due consideration of the fact that they were not created in duplicate. Following are the key differences between the sexes in the sight of Islam.

1. The rule of evidence (Shahada)

To bear witness in some business transactions or civil debts and contracts, Islam requires the evidence of two men or one man and two women. God said: "And get your witness out of your own men, and if there are not two men, then a man and two women, such as ye choose for witness so that if one of them erreth, the other can remind her" (II: 282). The reason is

(1) Wahby Sulaiman: "The Muslim woman" p. 55 and the Islamic encyclopedia by Farid Wagdi.

mainly precautionary because woman can forget some particulars or digress from facts due to lack of experience. Such a field of work is seldom assumed by woman, so there should be a measure of securing the rights of all parties. This does not imply any advantage or distinction to man - as he is experienced in practical life - over woman. It is also sure that this rule applies only to business debts and contracts because:

a. The above-said Quranic verses began as follows:
"O ye who believe! When ye deal with each other in transactions involving future obligations in a fixed period of time, reduce them to writing". The main concern was therefore to keep debts, contracts and transactions away from suspicions and disputes by means of recording them in a suitable form and bearing witness to confirm their validity. Imam Al-Kortobi said in his Tafsir of the Holy Quran: "This command touches basically on the financial transactions. Here God has repeatedly stated that they should be recorded because they had been a matter of protracted disputes and their proceeds remained uncollected. Recording them was by writing or evidence".

b. Evidence in other matters than business transactions did not discern between man and woman. For instance, in cases of divorce, God said: "And take for witness two persons from among you" (LXV: 2), and also in making a bequest, God said: "O ye who believe, when death approaches any of you, take witnesses from among yourselves when making bequests - two just persons of your own (brotherhood)" (V: 106). In these two matters, divorce and bequest, Islam made no specific stipulations for bearing witness except fairness, which involves both man and woman. This statement "two just persons" is generic and is not assigned to either of the sexes alone.

   Ibn Al-Qayyim commented that "making man and woman equal in all religious duties and legal punishments, then differentiating between them in bearing witness to business debts substantiates the Islamic Laws integrity and completeness as regards securing the rights of the contracting parties against digression and forgetfulness".

c. The condition that two women and one man are required was put with the unique object of safeguarding the rights in dealings between people. It was explicitly shown that the reason is only precautionary: "So that if one of them erreth, the other will remind her" (II: 282).

d To substantiate that the intent of these conditions is only to verify, warrant and preserve the rights of the contracting parties, it was reported that the Prophet had judged by "the evidence of an oath and one witness" because the prescribed number of witnesses was unavailable.

He said: "If all men are given (their rights in accord with) their claims, the blood and property of men shall be simply claimed by slanderous allegations; but the solemn oath should be made by the defendant". Imam Malik said in this connection: "The Prophet laid down this judicial rule, i.e. "the evidence of a solemn oath and one witness" to be applied in lawsuits concerning "the private property". It is, however, inapplicable in cases of crime, marriage, divorce, slave enfranchisement and robbery".

e. The above differences between man and woman in bearing witness do not indicate in any sense that she is inferior to him because, in certain matters, a woman's witness is exclusive and no man's witness is required. Among these: the filiation of an infant to his mother, and the proving of puberty and consummation of marriage. Imam Malik said: "The Prophet's Sunna prescribed that only two women bear witness that a child had attained puberty so that he may have a share of inheritance. No man's witness nor oath are required with the woman's witness".

f. Another proof is that in the crimes of adultery or fornication, Islam required four men's witness. This was clearly not to put to doubt or undermine man's honesty or truthfulness, but mainly to safeguard woman's reputation, dignity and honour against false allegations and malicious slander.

g. It should be borne in mind that Islam attributed this differentiation between the sexes to their respective natural dispositions, though it had acknowledged their creation from the same origin and essence (2). It is not indicative of woman's inferiority but touches directly on people's interests and the safeguarding of Justice. Should the law treat the testimony of a woman - as she is inexperienced in business and commercial fields - equal to that of a man, it would be detrimental to the cause of justice and the interests of the contracting parties. Woman, it is clear, shall not draw any gain or advantage therefrom.

2. Differences in the distribution of inheritance

The Muslims who championed the so-called "cause of oriental woman" and other antagonists of Islam aver that, in the sight of the Religion of Islam, woman is worth half of what man is worth in financial matters. They purposefully point, as an example, to her share in inheritance and blood ransom, but ignore the fact that in all past religions and cultures, woman, as a wife, was totally deprived of the right of inheritance, and as a daughter, she

(2) Dr. Mohamad Al Bahie: "Islam and the inclinations of modern woman", p. 45.

was stripped of this right if her decceased father had other male offspring. Islam maintains that women be given a proportion in the distribution of the bequest: "From what is left by parents and those nearest related, there is a share for men and a share for women, whether the property be small or large, a determinate share" (IV: 7). But this share is differently determined according to the needs and financial burdens every heir bears. Islam, in this respect, does no injustice to either of the two sexes:

a. In some instances woman gets a share equal to that of man; this is in the case of the father and mother who inherit from their dead son: "For the parents, a sixth share of the inheritance to each, if the deceased had left children" (IV: 11).

b. The same applies to the portion of his sisters and brothers: "If the man or woman whose inheritance is in question has left neither ascendants nor descendants, but has left a brother or a sister, each one of the two gets a sixth; but if they are more than two, they all share in a third" (IV: 12).

c. In case a man left only female offspring, an only daughter gets half of the inheritance, while two or more daughters get together two thirds and the remaining portion is distributed to all other heirs: "If only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is half" (IV: 11).

d. A daughter normally gets half the share of a son: "God directs you as regards your children's inheritance, to the male a portion equal to that of two females" (IV: 11).

A historical survey of this issue shows that a common practice among the pagan Arabians was to restrict inheritance exclusively to older male children. Islam, rejecting this unjust custom, was kind and just to woman. In general, the Islamic law of inheritance gives her an equal right to that of man to inherit, but differentiates between them in the distribution rate: "To the male the equivalent of the portion of two females" to reflect the fairest rule of giving every person according to his needs.

Ibn Abbas quoted Ibn Katheer as reporting that many people were angered when this Quranic verse was sent down. They came to the Prophet and said: "Is it just to give the slave-girl (the daughter) half of the property left by her father while she is exempt from riding with the warriors and fighting against the enemy? Is just that a minor-boy takes a portion of the inheritance while he is still good for nothing?"

Their denunciation sprang from their belief in a well-established Pre-Islamic rule by which the family wealth should be concentrated in the hands of the older sons who are entitled to fight in defense of their tribe.

Women and children were totally deprived of the right of inheritance. But if Islam had abrogated this rule and eradicated all Jahiliya customs, it remains that Muslims of the present times tend to exalt the non-Muslims' principles of inheritance. Far from doing justice to the nearest relatives of the deceased, the un-Islamic laws in some countries restrict the inheritance exclusively to the eldest son, or establish the wife as caretaker of the whole inherited property. Sons and daughters shall have the right to inherit only after her death. While some Western systems deny the principle of inheritance others give the holder of property full freedom to distribute it by testament, or dispose of his wealth at whim even though his legal heirs are completely deprived of it. To return to Islam, the power of testament only extends over one-third of the inheritance, while two-thirds of the net property should be distributed among the dead man's nearest relatives relatives as laid down by the Divine Law.

It is so sad to note that ignorant people manipulate this Islamic principle inheritance which is quite justified and especially in line with the true nature of mankind. For, if people tend to inherit their parents' characteristics and congenital diseases such as haemophilia, diabetes and even madness, it is therefore only natural to leave them this aid in accord with their responsibilities and kinship category from one generation to another.

Islam, more kind to woman in this respect, has given her a portion of the inheritance which is quite justified and especially in line witthe true nature of mankind. For, if people tend t inherit their parents' characteristics and congenital diseases such as haemophilia, diabetes and even madness, it is therefore only natural to leave them this aid in accord with their responsibilities and kinship category from one generation to another.

Genetics, as a proven branch of natural sciences, has shown that many diseases, as well as genius chacacteristics, are transferred by birth. Even atheists cannot deny the scientific facts which attribute the differences between individuals to the following factors:

First: the complete arrangement of the genes in the human cell

Second: the ambient environment; i.e. the weather, temperature, feeding, protection, education and treatment, which all combine to influence the future traits of an infant's life.

Psychologists have also highlighted the close relationship and consequences of genetics on the human brain, intelligence, temperament, and body constitution carried by the mutation of sexual and other characteristics through the genes and chromosomes. History bears witness that even the royal dynasties of England and Spain had a long chainof inherited

haemophilia, while in Nazi Germany, Adolf Hitler had ordered the sterilization of the mad and insane in order to inhibit the transfer of their disease to the coming generations. If Eastern and Western ideologists are inclined to accept these facts, they should also, from their purely materialistic stand-point, recognize the principle of inheritance as laid down by Islam.

Many ideas of the Communist theory prove to be without any sound basis. An outstanding drawback was demonstrated in the report of a senior Soviet economist, Zolin, published in the official organ "Pravda". He recommended that the Soviet Union return to a system of private ownership of the agricultural lands in order to overcome the increasing problems of food production. "Ownership of the land should be to whom he cultivates it", he concluded. It is true, therefore, that his findings represent a covert acceptance of the principle of inheritance, as well as the application of a true Hadith of Prophet Mohamad: "He who owns a land should exert all his efforts to cultivate it, or give it to his brother or next of kin to cultivate it, but should not lease it (to aliens)" (related by Muslim).

In her book "The Religions of India", Annie Besant testifies: "The world has been mistaken in its assessment of Mohamad's theory about the status of women. It was alleged that he said that the woman has got no soul. What a prejudiced slander? So let me tell you about the true teachings he preached. A Quranic verse reads: "If any do deeds of rightousness, be they male or female, and have faith, they will enter Heaven, and not the least injustice will be done to them" (IV: 124). Islam had granted women equal rights and duties as man, but it has not confined its tenets within the limits of generalized theory. It laid down the just law of inheritance which gave woman a share in the property left by her husband or father. The Islamic Law proved to be kinder and juster to woman than any other similar legislation effective in India. It is an ideal law which ensures protection and security for women together with their owned property, because nobody among their brothers-in-law, children, or kins of any category can take away their inherited share without their consent" (3).

2.1 Inheritance in the Christian & Jewish Laws

In Christendom, the woman is deprived of the right of inheritance or given a portion determined by a Will or Testament disposition of the deceased man. A letter from Patriarch Yousuf Habash to the "Council of Holy Faith" on 29.9.1840 said: "The judges in the Mount of Lebanon apply all principles of the Islamic Law in every aspect and especially in the matter of

(3) Dr. Mostafa Al-Sibai: Woman between Law and Jurisprudence, p. 214,

women's inheritance. In the past, it was a common practice among the Christian population of the Mount, rich or poor, that the daughter had no right to inherit from her parents unless her name is explicitly cited in a testament".

In the Torah scriptures it was stated, in the Book of Genesis, Chapter 21: "A female has not the right to inheritance if the dead man had left a male offspring".

2.2 The Pre-Islamic Arabian Law

The Pagan system prevailing in the Pre-Islamic era completely deprived woman of any right of inheritance. This injustice was abrogated by Islam in a a single stroke. God said: "From what is left by parents and those nearest related there is a share for men, and a share for women, whether the property be small or large, a determinate share" (IV: 7).

Imam Ahmad quoted Jabir as reporting that the widow of Saad Ibn Rabie complained to the Holy Prophet: "These are the two daughters of Saad. Their father was fighting beside you on the Day of Uhud, and was martyred. Their uncle took away the martyr's property and left them nothing; and without means they will not be able to get married". The Prophet said: "It is God who will judge in your case". The broad principles of the inheritance law were therefore revealed as follows: "God thus directs you as regards your children's (inheritance): to the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance; if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if no children and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters) the mother has a sixth. (The distribution in all cases is) after the payment of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by God; and God is All-Knowing, All-Wise" (IV: 11). The Prophet then sent to their uncle: "Give the daughters of Saad two-thirds of the inheritance; to the mother the eighth and the remaining is your share".

The onset of the Quranic verse: "God thus directs you as regards your children's inhericance) does not mean that the principles of the inheritance law are only recommended or optional or equal to the testamentary dispositions. Rather, it eloquently appeals to the conscience and innate feelings of the fathers and mothers who had strayed from the appropriate and just treatment of their children. A prerequisite of such justice prescribes that the female should be given a share of inheritance. Ibn Katheer interpreted this verse: "God (thus) directs you...." as equivalent to "God commands you

to maintain justice between your children". Other scholars said that God's wisdom was equally k... ...r to male and female children than were their own parents.

It was report... that the Holy Prophet saw a woman-captive who had lost her infant in the great tumult of the war prisoners. When she finally found him, she took him tenderly to her bosom, caressed him, and sucked him with clear affection. The Prophet asked his companions: "Do you see this woman dare sacrifice her child into hell-fire (and she is able to do that)"? They said: "No". The Prophet said: "By God, The Lord-Creator is kinder to His servants than is this woman to her infant".

It is very important to note that the above verse was concluded by showing that the shares of inheritance outlined therein "are settled portions ordained by God". To protect the rights of all heirs, Islam went further to restrict the testament power to only a third of the inheritance so that no injustice is done to the nearest related men and women.

2.3 Jahiliya Objections

When God revealed that woman should have a portion of inheritance and laid down the principles governing the distribution of legacies, many people still holding to the Jahiliya customs objected to the new system. Imam Bukhari reported from Ibn Abbas that "property was bequeathed to the sons, and a portion was left to the parents by testament. God revoked this rule and ordained that to the male is given a portion equivalent to the sahre of two females, to the parents for each a third or a sixth, to the wife a quarter or an eighth and to the husband a half or a quarter of the inheritance". Ibn Abbas also narrated that "when God's law of inheritance was sent down to grant a share to all sons, daughters and parents, many people were disinclined to accept it. They argued that "neither the wife who was given a quarter or an eighth, nor the daughter who was given a half, nor the small boy who was given a larger portion, are good for fighting the enemy or attaining the booty (of war)". Some people were of the opinion that the matter should be concealed in the hope that the Prophet may forget about it or the whole system reconsidered by God. Others approached the Holy Prophet saying: "O Messenger of Allah! The slave-girl (the daughter) is given half of what is left by her father while she does not ride with the warriors or fight our enemy, and the male child takes the inheritance while he is good for nothing":

Ibn Katheer comments: "This was a common practice during the Age of Ignorance. They only gave the right of inheritance to their older sons who were able to make war, until God ruled otherwise; "Ye know not whether your parents or your children are nearest to you in benefit." which means that

the parents too should have a share so that all nearest-related, male or female, have equal right to inherit. A man is thus susceptible to inherit from his parents as well as parents from their sons".

2.4 Burdens and inheritance in Europe

The European woman did not acquire her position in Western societies by a natural process, or a Divine Law. She had to struggle, offer painful sacrifices, stage demonstrations and carry arms against the exploitation and iniquity of man. Still she doesn't feel in a happy position, and has to indulge in corruption and exhibition in the name of emancipation. The distribution of inheritance in most Western countries is left to the whims and desires of the property holder who may bequeath it to any human being, animal or organization he wants through the power of testament. According to his moral condition or selfishness, he may deprive the nearest related or the needy beneficiaries from their share. The woman, as wife, may also endure this hardship, although she is obliged to share in the financial burdens at marriage as well as during her marital life.

Article 203 of the French Civil Code stated that "marriage entails the duties of providing living expenses, aid and childrearing" but did not determine the party who will assume each of the duties. But Article 207 stated that the marriage obligations are mutually incumbent on husband and wife, while Article 212 stipulated mutual commitments of loyalty, assistance and affection. Article 213 prescribed that both husband and wife shall carry out the material and moral administration of the family and supervise the upbringing of their children. But if the marriage contract includes no specific clauses, the couple shall be jointly responsible for providing the family with basic necessities, each in accord with his means. This provision was made a prime duty of the husband in Article 214, while the woman had to share in the family living costs with any means in her possession or from her earnings, in addition to discharging the household duties and assisting her man to build and develop his career.

The testamentary dispositions may therefore be unjust, since the wife could get nothing of her dead husband's property in return for her contribution to the family's well-being since he is empowered to relegate his legacy to whomsover at his own discretion in the absence of any system to protect the heirs and their rights.

2.5 The differences in blood ransom

The blood ransom is an indemnity paid by the criminal convict or his relatives to the victim or his heirs in order to compensate them and repair the damage. God said: "Never should a believer kill a believer; but (if it so

happens) by mistak (compensation is due): if one (so) kills a believer, it is ordained that he s' uld free a believing slave, and pay compensation to the deceased family, nless they remit it freely" (IV: 92).

The amount of the legal ransom was determined in one of the Prophet's Hadith: "A hundred camels (are offered in compensation) against the human soul". Contrary to the provisions of some schools of law this statement did not specify whether the killed is man or woman. Ibn Al-Monzir said: "All notable jurists were in consensus that woman deserves half the blood ransom paid to a man". To substantiate their judgement, they said that Amr Ibn Hazm quoted, in a lengthy treatise, the Prophet as saying: "The killed woman's compensation is half that of a killed man". Some old and contemporary scholars of the Prophet's traditions argued that the said citation is not found in the treatise of Ibn Hazm, but was related by Al-Baihaqi on the unconfirmed and unreliable authority of Moaz Ibn Jabal. Instead, they quoted the Prophet as saying in a message calling the people of Yemen to Islam and preaching its principles: "The man is sentenced to death for killing a woman". Thus Islam held them equal as regards their punishment for a premeditated crime. Consequently, they should be considered equal in the blood ransom which is, in fact, a punishment for the unintentional killing of a believer. This opinion was also supported by such jurists of the Hanafi school of law as Al-Assam and Ibn Alya.

2.6 The principle of Equality in Islam

Almighty Allah sent down the principles of Islam in full knowledge of all aspects of human nature. Men and women were given an absolutely equal status insofar as they are human beings. By a divine decree shown in many Quranic verses, the Muslim woman had acquired a lofty status of nobility, dignity and moral distinction. Those Westernized Muslims who - in full ignorance of Islam - call for woman's freedom and equality with man should be reminded that:

2.6.1 Islam, before all laws and revolutions, granted her an equal human position in family and social life. As father and mother, both man and woman are held as equal partners, entrusted with specific duties and responsibilities consonant with their physical and mental dispositions. Man was vested with family headship. In return, he bears all living expenses and complete maintenance of his wife and children. The Muslim woman has no financial burdens of any kind.

In contrast, the French and other non-Islamic legislations provided for joint financial obligations where woman has to share in the family's living costs. Where the Muslim man is ordained to give woman a

dower, the marriage system in Western societies forces the woman to pay a dower to her husband, and put her goods and property under his control.

2.6.2 Islam gave woman a share of inheritance, while in the non-Islamic societies, where property is bequeathed by testamentary power, she may be completely deprived of any share. Before his death, a property holder is free to relegate his wealth to anyone he wants, whether this be a servant, an animal or an organization.

2.6.3 Islam maintains that woman should have equal pay with man in similar work, exactly as they both have equal reward for their good deeds and equal punishment for their evil deeds.

2.6.4 The perfect equality claimed by woman could, in many ways, be harmful and burdensome. Even in the West, where women have won a limited freedom and restored some of their usurped rights, there were some reactions from the part of women's associations against perfect equality since the abolition of many privileges granted to the fair sex in matters of military conscription, alimony and treatment in prisons would ensue.

3. Economic burdens and headship

Modern women's organizations provide in their "Articles of Association" such issues as the emancipation of woman in the Arab and Islamic world and an ardent appeal that she plays a true role in her society. It is often stated that she has to disengage herself from man's bond so that she can enjoy her economic independence.

These imitators still overlook the fact that the Western woman, in order to reach her present status, had to force her way, make her own living and establish herself at the expense of her family life. Conferences and campaigns for her liberation are still afoot in many parts of the non-Muslim world, but still she feels unhappy and oppressed.

As to the financial responsibilities, most Western women are still governed by the provisions of the aging French Civil Code which prescribed the wife's and husband's mutual obligations towards their family. A specific economic system should be mentioned in the marriage contract to organize the couple's financial rights and duties during their marital life. It could be one of the following:

a. The wife pays a dower, which may constitute her entire property, to assist her husband in founding the family home.

b. The wife chooses to join her property with her husband's, giving up all

her rights therein, and establishing him as the sole one responsible for administering and exploiting her wealth.

c. Otherwise, a sharing system shall be applied, whereby both husband and wife are equally responsible for the sustenance of the family, each according to his financial capability.

Yet, these imitators should turn towards the misunderstood religion of Islam and see how it is just and kind to woman. For, since the very beginning, Islam recognized her independent personality and provided for her financial security. As a daughter, and before marriage, she is sustained by her father or guardian in case the father is dead. Godf said: "But the father shall bear the cost of their food and clothing" (II: 233) and the Prophet said: "He is most sinful who refrains from supporting his dependents" (related by Abu Daoud) For a wife, her husband is held responsible for her total maintenance. Even if she is wealthy, she is exempt from any financial liabilities, and does not have to share with him in any of the family living expenses. God said: "Let the women live (in iddat) in the same style as you live, according to your means: annoy them not, so as to restrict them" (LVX: 6) and said: "Let the man of means spend according to his means: and the man whose resources are restricted, let him spend according to what God has given him" (LXV: 7). The Prophet said: "It is women's right that you treat them most kindly in their feeding and clothing" (related by Tirmizi and Ibn Maja).

At marriage, she has the right to a suitable dowry which will be her own property. In addition, man bears the burden of founding and furnishing the family home. She has the right to hold property directly and utilize it without man's interference. Her husband had no right to exploit or dispose of any of her belongings. God said: "And give the women (on marriage) their dower as a free gift" (IV: 4), and "Give them their dowers(at least)asprescribed". (IV: 24). Thus Islam gives her full honour and security. In addition, this injunction concerning the dowry to be paid by man makes sure that he needs this particular woman and is ready to carry out his legal responsibilities towards her. This gesture of man comes in discernment of human relationships from animality where the female plays the main role of enticing and winning her mate. With all this Islamic conservation of the woman's rights and security, an Egyptian lady and Minister of Social Affairs in 1967, Dr. Hikmat Abu Zaid, emphatically declared that "the woman's dowry is no more suitable for the socialist era" (4).

Complete maintenance of, and provision for the family is the husband's obligation in his capacity as the prop and head of the family. All financial

(4) Dr. Hikmat Abu Zaid: Egyptian Minister of Social Affairs, 1967, Official address.

burdens are man's duty which he shall fulfil without condescendence. God said: "Men are the protectors and maintainers of women because God has given the one more (strength) than the other and because they support them from their means"The common experience of social life shows that every community requires a manager. Like any other organization in the society, the family needs a responsible head to manage its affairs: "The members of any social organization shall have different ideas and requirements, and in the absence of a head to give a decisive resolution, anarchy and division shall prevail which shall eventually lead to infights, disunity and disorder. The man is most entitled to the family headship because of his rational qualities and physical constitution which enable him to fulfil any duty by his strength and his means without fears or emotions" (5). This does not, however, mean that bearing the family living expenses is the only reason for establishing man as head of the family. "Men have a degree over women". They were made the protectors and guardians of women because God made some of them excel the other and because men were ordered to spend of their means. Such differentiation cannot be considered as superiority of one sex over the other. "In the contrary case, this degree of advantage will be denied to man if woman fortunately happened to own the means which would dispense her from reliance on man" (6).

The State Governorship was restricted to man in line with Islam's principle of labour division based on the physical and mental dispositions of the sexes. Woman's feelings and emotions are deeply impressioned by her regular menstrual courses, while child-bearing and suckling may require her full-time motherly intuitions for which she could be susceptible many times during her lifetime. Compared to man's character, these fundamental physical differences prevent her from properly undertaking the Nation's leadership and the State rulership. Otherwise, a society which departs from the malleable nature of humanity is doomed to widespread corruption, anarchy and instability, unless the governorship is nominal. Preference given to man, rather than woman, as head of State and family is to the benefit of the nation and the home as well, because he is aptly equipped for this duty. With their different primary spheres of activity, men and women are equally important elements of the family, nation and humanity. The degree of advantage draws on all of the male sex. It is not an individual's endowment or personal privilege given to a certain class of men. For, in so many marriages, the wife could excel in knowledge, be strongly built, or have ample means.

(5) Shaykh Mohd Rashid Redha, "Women's Rights", p. 36.
(6) Abbas Al-Akkad, "Woman in the Holy Quran", p. 7.

Mutual sympathy, understanding and cooperation remain the solid basis fo successful and happy marital life.

Contrary to all economic restraints imposed on Western woman after her marriage, the Muslim woman does not lose her right to contract, but can possess independently as a consequence of man's headship status. Financial transactions concluded by a Muslim woman are legally valid and cannot be rescinded by her husband's or father's disapproval as far as her own property is concerned. Again, it should be borne in mind that her behavior remains subject to the moral safeguards of Islam. She is permitted to carry on her proprietory rights and economic activities within certain limits. For instance, she is prohibited from drawing the attention of alien men. God said: "They should not strike their feet in order to draw attention to their hidden ornaments" (XXIV: 31). She must not receive strange men in her home, nor dispose of her husband's belongings without his permission. The Prophet said: "A woman may not dispose of her trust of her husband's possessions without his consent, but if she does this, he will win the due reward for the charity and she will bear the burden of sin" (related by Al-Baihaqi). These prohibitions, however, are certainly meant to prevent unfaithfulness and suspicions which may shake the family peace and concord.

3.1 The right of headship: authority and extent

We have seen how the oldest as well as the most modern concepts of the Western world about woman's status have shown a lack of balance in the ideas of freedom and social life. Starting as a chattel which was trafficked in and inherited, the Western woman has ended her struggle for freedom and equality by sinking in the devilish traps of cultural exploiters, a stripped economic independence, and a disrupted family life based on materialistic ends.

Islam, on the other hand, has structured the Muslim society on brotherly feelings and mutual cooperation. It addresses its message to all mankind, enjoining both men and women at all times and climes to live in piety and goodness, to invite the right and combat the evil. Woman is established as the exact counterpart of man, or his "twin-half", deserving honour, respect and equality in all spheres where there are grounds for it. Standing at a par in their origin, abode, and reward for their deeds, they are entrusted with different roles. Their practical life entails a differentiation between individual and social rights. An individual loses some of his rights to other parties in the

course of his movement within the society, always with moral safeguards to protect a human's inalienable right to life and dignity.

A worker in a factory is subject to the direct supervision and authority of his employer. He is also committed to obey all kinds of orders, instructions and precautions provided in the work rules and regulations. Within these limits he is not absolutely free but, once out of the factory, the employer has no authority over him, nor is the worker obliged to hear and obey him except by way of social morals and ethics. Similarly, a son may enjoy all lawful rights in his social life as he is directly responsible for his deeds before God. But within the family, Islam enjoins loyalty and obedience to his father's headship.

After the consummation of marriage, a wife becomes a partner in a marital relationship where the husband is given the role of head and provider. A righteous wife is devoutly obedient to her husband. But his headship is no compulsion or tyranny, because he is ordered to treat his wife with kindness and cause her no grief. Marital life obligations are, rather, discharged through Shura (mutual consultation), affection and sympathy.

As the rights and roles may differ in accord with individual or group life, they also vary within the social framework. A citizen should be loyal to the Islamic State, obey those who are charged with authority, abide by its system, and concern himself with the conduct of public affairs. Citizens' obedience is conditioned by the ruling order's compliance with God's Law. In the present times, the required obedience or total silence is a function of the type of ruling system.

3.2 The Law of Family in Communism

The standpoint of Islam is that the spiritual values are the most important for human life in society. Based on this strong foundation, evenly-balanced rights and duties, controlled by moral safeguards, were granted to both man and woman. The practical differences of the sexes are implied, overtly or covertly, in the legislations of all world countries whatever were their systems or creeds, because they are true facts which thoughtfulness and reason cannot deny.

Even the atheist regimes, which reject religion and inheritance principles or claim perfect equality between men and women, cannot alter the primary roles devolving on either sex. They cannot transfer the functions of motherhood and childrearing to man nor do they deprive the child from his right to legitimacy and bearing the name of his father. Such is the quintessence of social life as turned out from the creative hand of God: "Establish God's

handiwork according to the pattern on which He has made mankind: No change (let there be) in the work (wrought) by God" (XXX: 30). The 1917 Russian 'Family Law' - amended in 1918 - organized all matters concerning the Civil Status of the Communist citizens, such as marriage, child filiation and tutorship, on the old basis of the religion which was diametrically rejected by the Atheist Revolution. The preamble of the 1926 Amendment of 'Family Law' stated that "the Law intends to lay down rules for marriage, family and tutorship based on new concepts of the Communist Revolution". Nobody has ever claimed that organizing marriage and family affairs could be one of the basics of the Bolshevist Revolution! Because the family system is viewed by the Communists as a result of the private ownership principle. Communism divorced the economic system from the social one. Family is merely a social unit which helps in the full exploitation of production means. With the advent of common ownership, woman is freed from the bonds of the family system as she is required to bear an equal burden in the production system since there are no recognized differences between the functions of the sexes. Engels, in his "Family Origin", called for the re-organization of "the relationship between sexes" following the liquidation of the capitalist production relations. This entails a conclusion of a negative character to determine the marriage interrelations which are required to disappear from the new concept.

3.3 The Law of family between Communist and Western Systems

The 1926 Civil Status Law of the Soviet Union provided for many reforms including the abolition of the religious marriage which took a civil form. The State alone was given the right to organize, contract and register new marriages. The new Law also permitted divorce and made it easier than in the old ecclesiastic system.

In Europe, marriage is governed by a civil contract while the family systems had been affected by the implications of the revolutions, wars, movements of emancipation and the faulty and irresponsible claims of women's perfect equality with men.

In France, the 1791 Constitution (Article 27) stated that the marriage is a civil contract. Several amendments to the marriage laws were effected in 1896, 1907, 1913, 1922 and 1933, all tending to simplify marriage procedures and annul formalities provided for in the ecclesiastic system of marriage.

In Portugal, the 1910 Family Law adopted the civil marriage and the 1930 amendment stipulated that the marriage should be contracted by the Civil Status officer under the conditions and provisions of Article No. 1057 of the Portuguese Civil Code.

The aging 1889 Spanish Law recognized in its Article No. 42 both the Civil and ecclesiastic marriage contracts. A concord was reached between the Government of Italy and the Pontifical authority in the Vatican on 11/2/1929 whereby both ecclesiastic and civil contracts were considered equally valid. However, the marriage contract, conditions and regulations remained under full control of the Christian Church of Rome until 1970 when they were amended after a State-Church struggle which lasted more than 117 years.

In West Germany, the 1975 Civil Status Law recognized the civil marriage system which was made compulsory to the neglect of all previous laws. The French system was adopted in the new German Law of Civil Status.

The Communist Law Considered concubinage or the illict sexual relationship as equal to the unregistered marriage, on the condition that a Court Judgement be rendered at the couple's request to establish the companionate relationship (Article No. 10).

All Western countries are infested with the most devastating freedom of illicit sex. Concubinage is pardonable. It is not legally recognized, but no legal penalties are enforced against such a crime. Adultery and fornication are encouraged by the society, but only punished in cases where violence is used to rape a virgin or whenever a betrayed husband wishes to chastise his adulterous wife. However, no punishment will be pronounced against her if he thinks to pardon her. This pcinciple is literally applied in many Arab countries.

In Western Law, the children born from extra-marital conceptions are called "Natural children" and given the same rights as those who were born inside the wedlock. Article No. 767 of the French Civil Code gave the husband or wife the right to get a quarter of the inheritance if there are no children left, or half if there are brothers, sisters, related mains and branches, or natural (illegitimate) children.

While the violation of the marriage bed has become a common feature of Western life, the desertion of the conjugal home to live in an illicit love relationship with another man or woman takes grave proportions as an ordinary phenomenon of social life. Even in the stronghold of Catholicism, in Rome, as in other Western countries, this abandonment is high among married men and women who wish to use it as a means to get divorce, leading to more disintegration of family life and more departure from moral and human values.

3.4 Grounds for the family headship

A first principle of law from which emanated other mandates is that man

is a degree above woman in marital life. The husband's headship of the family is recognized in all world systems which also normally make sure that a child is filiated to his parents and bears his father's name, although the sufferings and sacrifices of his conception, delivery and rearing are the lot of his mother. Islam was unique in that it based the family headship on man's natural dispositions in addition to his commitment to support his wife and children and provide them with all life's necessities. "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means" (IV: 34).

The headship is a social requisite, and family, as any other organization, needs a responsible manager to look after its affairs. A state of anarchy may prevail if the leadership is undertaken by two or more heads. God said: "If there were Gods besides Allah (in the creation of the universe) then verily both (the heavens and the earth) would have been disordered" (XXI: 22). So, as there is but one God to be worshipped by all creatures, we are equally ordered to form but one Umma of devout believers, whom the Holy Prophet described thus: "All believers, in their brotherhood and solidarity are but one body wherein if a limb complains, the whole body will show the same feelings through fever and wakefulness".

Among other possibilities as to the headship of the family, God gave a clear decision and judged Himself that "Men are the Protectors and maintainers of women" (IV: 34). He also pointed out that the reason for investing men with the leadership is that "God has made some of them excel others, and because they spend out of their means". Supporting the family is not therefore the sole reason for assigning man as head of family, since in special cases, woman can support herself and her parents or children if she has no bread-winner. Another gauge is the difference between man and woman in the realm of bodily constitution and psychological framework. Woman's sphere of activity was demarcated by Islam primarily in the procreation of new human generations and taking care of her family and home to make it a place of concord and peace. The motherhood role entailed many other physiological functions and emotional qualities which her counterpart does not possess, such as the menstrual courses, conception, delivery and suckling. She was more endowed with tenderness, strong emotions, and sensitive disposition than man, to enable her to carry out her arduous functions (7) Dr. Frosset in his medical encyclopedia remarked that: "as a result of her poor blood and nervous systems, woman's constitution is vulnerable to more or less serious diseases stemming out of her repeated performance of the conceiving, motherhood and suckling functions".

(7) Dr. Eurtache Chesser: "Successful marriage key to happiness" p. 98.

3.5 Equality and headship

Islam no doubt gave the husband the status of caretaker and head of the family in the context of labour division and exchange of mutual rights and duties devolving on each according to his nature and physical potentialities: "Women have rights equivalent to her responsibilities, but men have a degree over them".

The headship is a solemn duty and heavy burden,. It was not meant to establish man as a dictator over his wife and children. Rather, it invested man with the rough outdoor work and the exacting struggle of bread-winning in order to support his family and provide his dependents with maintenance and security. In forewarning mankind against Iblis, the prototype of Evil who tempted Adam, God spelled out that man, alone, shall bear a full range of responsibilities and hardships following his descent from the Gardens of Eternity: "Then We said: "O Adam! Verily, this is an enemy to thee and thy wife: so let him not get you both out of the Garden, so that thou art landed in tiredness. There is therein (enough provision) for thee not to go hungry nor to go naked, nor to suffer from thirst, nor from the sun's heat" (XX: 117-119). So, the duty of working for and maintaining his family was exclusively entrusted to Adam: "Thou art" he was ordered by God.

In determining the course of behaviour for the marriage partners, Islam ordered the husband to consort with his wife in kindness and equity, give her full maintenance and do his best towards a happy, stable and durable marital life. Imam Muslim reported that the Prophet said: "A man-believer should never despise his woman-believer, if he is displeased with one of her qualities, he will be pleased with many others". The husband was thereby commanded to respect his wife's feelings and show her affection, sympathy and consideration.

3.6 Could the headship of a family be denied?

Investing the family headship in the husband is only natural, and was ultimately adopted by all systems and societies - even those which stand for the perfect equality of sexes.

Twenty years after the Communist experience, the Russian Family Law was amended in 1944 to reflect the State's interest in protecting motherhood and childhood against the negative effects of the unrestricted sexual relations provided for in the 1926 Law. Article No.19 of the amended Law stated that "the registered marriage is that which entails such legal implications between the married parties concerning their rights and responsibilities as provided in the unified laws regarding marriage, family and tutorship".

In the Soviet Union, as in all other countries of the world, children have an incontestable right to be legitimately born and filiated to only one father, despite the fact that the mother bears the most awful hardships in the procreation and upbringing of these children.

Most countries of the world also restrict the State rulership to men and innately keep women away from it. In the very few examples, rulership came down to women from a dynastic rule as in the United Kingdom, or was given in honour of a dead father or husband who led his country's struggle for independence, as in India or Sri Lanka.

But if the emotional character of woman is suitable for motherhood, it is rather totally unhelpful in some dangerous situations of practical life where perseverance, steadfastness and intellectual dispositions are required. Islam relieved her from supporting the heavy burdens of leading the nation, kindling an offensive or defensive war, and concluding peace. It was stressed that her primary functions of taking care of her family, conceiving, suckling and bringing up her children may impede her pursuance of the crucial and exacting duties of rulership.

Bearing in mind the equal rights and duties devolving on men and women in accord with their nature, Islam reproaches those who believe that woman is inferior to man. From this standpoint, Islam makes sure that man's headship shall not violate woman's legal entity and economic independence. She will continue to be equally entitled to contract, and possess on her own after as before her marriage. It may be concluded that the family headship is, rather, an instrumental authority confined to the rights and obligations of both the husband and the wife within the marriage-bond as enjoined in the Islamic Holy texts regarding the marital and divorce systems.

4. Disobedience and disloyality (misconduct)

The Islamic law has clearly enunciated the fundamental bedrock of conjugal life. Says the Holy Quran: ".....live with them on a footing of kindness and equity. If ye take a dislike to them it may be that ye dislike a thing, and God brings about through it a great deal of good" (IV: 19). The Prophet as well, in many sayings, exhorted men to be good and kind to their wives and cause them no injury or grief.

As general compatability, mutual consent and sympathy were prescribed to ensure the permanence of marital ties, then any malfunction of these measures or any discord which cannot be overcome should be recognized and divorce applied as a last resort after giving all facilities for reconciliation: "either hold together on equitable terms, or separate with kindess" (II: 229).

But what is the remedy in case a wife shows rebellion or disloyality? Should her husband use his powers prescribed by Islamic laws or simply follow the non-Muslim practice of separating from his partner and setting up extra-marital relationships while the marriage bond remains nominal?

In the case of a Muslim wife's disobedience or rebellion, Islam orders that the husband should first counsel her. If admonition fails to bring about an effect, man should proceed with another means of correction such as refusing sex relationships with the rebellious wife and ending with a slight physical scourge. Says God: "As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), next refuse to share their beds, (and last) beat them (lightly)" (IV: 34).

It is also worth noting that beating, as a physical correction, was the common lot of slaves and women all over the world until recently. While the Prophet of Islam was preaching: "Let none of you scourge his wife as were scourged the slaves" and restoring the slaves' human dignity: "He who kills his slave, we shall kill him; who mutilates his nose, we shall cut his nose; and who gelds a slave, we shall get him gelded in return" (reported by all imams except Ibn Maja), the history of medieval Europe abounds with incredible atrocities inflicted upon women and slaves. Gustave Lebon reported that Emperor Charlemagne of France used to beat his wife and sister, that the latter had three theeth broken after she was hit with his iron gloves. Frederich Nitche advised his fellow men "Don't ever approach woman unless you have your whip in hand". In the United Kingdom, a society was formed in 1975 to exert all endeavours towards the promulgation of a law to prohibit beating of wives. (8) In Denmark - the first country to grant woman her voting right in 1913 - medical statistics showed in 1980 that 270 women were hospitalized in the second largest town of Aarhus, with serious injuries and minor handicaps due to severe beating by their husbands.

Slight beating was prescribed by Islam as a remedy of last resort - not as an act of violence and revenge - against a wife's persistence in the wrong course, after exhausting two other means: admonition and suspension of sexual intercourse with her. The rebellion may take the shape of disobedience to man's authority as head of the family. But it is his Islamic right to be obeyed as long as he does not force her to violate the commandments of God. Legally, this kind of rebellion blocks her right to his support or maintenance.

Disloyalty is another kind of rebellion by wives which deserves a severer chastisement. Imam Muslim reported that the Prophet said: "It is your wife's obligation towards you that she should not allow anyone, such as you

(8) Reported by Kuwait's daily Al Seyassa, 1.6.1975.

disliked, to tread your bed, but if she does this, beat her lightly". The Prophet's commandment does not refer to adultery, but to woman's obligation not to let anyone enter the marital home or interfere in the couple's affairs against the will of her husband.

In another narrative, Ibn Maja and Tirmizi reported that the Prophet said in his "Farewell Pilgrimage": "O people! Fear God as concerns women. Verily you have taken them on the security of God and have made their persons lawful unto you by the words of God! Verily you have certain rights over your women and your women have certain rights over you. It is incumbent upon them to honour their conjugal rights and not to commit acts of impropriety which, if they do, you have authority to chastize them yet not severely. If your wives refrain from impropriety and are faithful to you, clothe and feed them suitably".

Imam Al-Shokani suggested that "only impropriety or ill-conduct shall be cause to inflict the punishments of sex suspension and beating". But as was clear from the first narrative of Imam Muslim, the physical means of correction may be applied if the wife lets into her home anyone whom her husband dislikes or without his permission. Some Jurists went on to clarify that letting strangers enter a special guest-room necessitates no permission from the husband and shall not be considered as disobedience. Now the question which poses itself is: What kind of 'impropriety' would make it permissible to beat the wife slightly? The term implies four different meanings, as follows:

a. Showing that adultery paves the way for other evils working against the interests of the family institution, the Holy Quran said: "Nor come nigh to adultery, for it is an impropriety and an evil deed opening the road to other evils' (XVII: 32). But here the punishment prescribed by the Islamic Law should be "stoning to death".

b. Rejecting the pre-Islamic custom which allows a step-son to take possession of his father's widow, the Holy Quran says: "And marry not women whom your fathers married, except what is past: it was shameful and odious impropriety, an abominable custom indeed" (IV: 22) This meaning, too, has no connection with husband-wife reciprocal rights and obligations.

c. Prescribing a determined period for the absolute divorce decree, after which a divorcee should leave the marital home. God said: "and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness" (LXV: 1). Although this meaning can be the nearest to the provisions of the Prophet's saying, it was argued that being found guilty of adultery, the woman would be compelled to

leave the house by force of the Law for trial and punishment. In addition, the whole matter is concerned with the divorce Law and its period of "probationary waiting" where a wife's obedience to her husband is confined to the positive response to reconciliation and resumption of the conjugal life if the divorce has not been irrevocably pronounced thrice.

d. Imam Al-Tabari suggested that "impropriety implies misconduct and each and every transgression which, by words or deeds, makes injury to the husband and his family". Thus it includes allowing any strange males to have access to what is exclusively the husband's right of sexual intimacy and receiving them into the marital home without his knowledge or permission. This may raise suspicion or gossip about her without any evidence of adultery. The husband is therefore entitled to divorce her or simply beat her as a way of correction so that their marital life is not broken off.

4.1 Disobedience and the household duties

Managing the household duties is not considered exclusively as woman's obligation, where disobedience may be punished by withholding sexual intercourse and slight beating. All Islamic Jurists agree that woman's commitment to serve in her home is not compulsory but is made in consonance with the spirit of kindness, compassion and wellbeing of the family which together form the basis of marital stability and success.

It may not be fair to argue that, during the lifetime of the Prophet, all Muslim women were allotted the work of managing their homes, because it was also reported that men participated in household duties where relevant. Compulsion shall be unjust and in conflict with the ordained kindness. Imam Muslim reported from Aisha that the Prophet used "to help his wives". Tirmizi also related this saying of the Prophet: "Best among you is he who is good to his wife".

4.2 The husband's misconduct

Islam made love and compassion major elements for the start of any marital union, and peace and tranquility its backbone. God says:"And among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquility with them, and He has put love and mercy between your (hearts): Verily in that are Signs for those who reflect" (XXX: 21). Kindness should be adopted whenever it is a question of solving family disputes or separating between the spouses: "either hold together on equitable terms, or separate with kindness". (II: 22). The Holy Prophet forbade men from mistreating their partners: "Let none of you scourge the

slaves of God (the women)". However, he permitted light beating in case the wife committed an impropriety or allowed strange males to enter her house without the husband's permission or consent.

Bahaz Ibn Hakim reported that when the Prophet was asked about the wife's rights, he replied: "You should feed and cloth her as you yourself feed and dress; you should not strike her face, hurt her feelings, nor suspend sex with her unless you are in your home". All narrators of the Prophet's traditions reported that his companions used, in such cases, to beat their wives with a short branch of a particular shrub normally utilized as a teeth-cleaner called the "Siwak". Imam Al-Kortobi quoted Ibn Abbas as saying that "the light beating was effected by means of the Siwak or the like".

Whether the light beating as a means of correction was confined to the narrow issue of a wife's open lewdness, ill-conduct, and letting strangers into her husband's home, or extended to the broader meaning of faulty actions such as offending or making severe injury to the husband or his parents by words or deeds, it was eloquently treated in the Holy Quran with due allowance for human nature and psycho-intuitive aspects: "As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), next refuse to share their beds, (and last) beat them (lightly). But if they return to obedience, seek not against them means (of annoyance)" (IV: 34). Humanely, every action entails a reaction. If this light chastisement has not been made lawful, the result of any minor family jar would be the dislocation of marital bonds and disintegration of the family as an institution of peace of mind and tranquility. Islam, as a realistic system of life, wants this concept to prevail between the married couple without any foreign intrusion. The local remedy was to be gradually applied, starting from counselling to sex suspension to light beating.

It is, however, true that the man-made family laws actually in force in many countries have apparently focus on the harshness of this corrective measure and regarded women's chastisement and beating as a basis for divorce. The viewpoint of Islam is that marital jars may be quelled without the intervention of law or violence, and ill-tempered spouses may be pacified without jeopardizing the marriage and family ties. This was commanded by the Supreme Law-maker, who knows best what is good for humanity: "Say: the truth is from your Lord, let him who will, believe, and let him who will, reject (it)"

But if this corrective measure turns into a means of torment and oppression, woman has the right to dissolve her marriage. Islam does not allow the husband's headship authority to be an instrument with which to illtreat, disgrace or torture his wife, or to establish himself as a tyrant over his

family. Islam condemns such behaviour and declares it tyrannical. Says God: "If a wife fears crueltyor desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best" (IV: 128). Ibn Katheer reported from Ibn Abbas that "everything they agree upon shall be lawfully binding". Imams Bukhari and Muslim narrated that the above verse was revealed when the Mother of Believers Suda Bint Zama'a grew older and feared the Prophet may divorce her because she could no more make herself sexually desirable or responsive. She offered to remain in the Prophet's home and put her physical strength at the service of Aisha, and he agreed.

However, the verse did not confine the meaning to this situation, rather, it extends to all forms of man's ill-conduct and disloyalty. Here the wife is ordered to candidly speak out about her doubts or grief with her husband and the two parties should try to settle the dispute between themselves. "And such settlement is best" says God. If she fails to obtain a peaceful solution, and man's continuing misconduct remains a cause of affliction, two arbitrators shall be commissioned to bring them together and try to settle their differences.

Al-Dardeer said; "Painful beating is not allowed, even though it may be the unique cause for woman's return to good conduct. So if man inflicts a chastisement out of proportion, she may secure divorce and appeal for retaliation in accord with the Law of Equality (9). God said: "We ordained therein for them: Life for life, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal" (V: 48). Ibn Jarih judged that: "Light beating is applied with a thin branch such as the one used for Siwak and the like; otherwise it will be impermissible". Dr. Abdul-Rahman Sabouni said: "Some Jurists tend to believe that the "light beating" as a punishment prescribed by the Holy Quran was done away with the large number of sayings where the Prophet forbade it". That is to say, The Quranic provision should be restricted to the situations of open lewdness as cited in the Prophet's address in "the Farewell Pilgrimage". Al-Khattabi explained: "If it is largely thought that the physical chastisement will not be helpful then man should refrain from it, because it is ultimately intended to bring about a peaceful solution between the two parties". Some scholars said: "It becomes outright prohibition if it was known to be of no use as a remedy for woman's disobedience". It should be borne in mind that both parties are, in the first place, ordered to sustain a relationship of kindness, love and compassion. "But, if they return to obedience, seek not against them means (of annyyance)"(IV: 34), God said.

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(9) "Interpretation" of Al-Dardeer, Part 3, and "Mawahib ul Jaleel", Part 4.

If, on the other hand, it is man who violates his wife's rights, Islam prescribes à different remedy. It does not want the wife to suffer her husband's misconduct passively, but offers a practicable solution, because no woman would like to beat her husband. Al-Dardeer said: "She can lodge a complaint with (the judge) who will summon the man, face him with the proofs of his transgression, and blame and admonish him if she chooses to remain with him. Otherwise, she can secure a separation from him. Remedy cannot be in beating the man, because this was made impermissible for woman and would be humiliating and disrespectful to man. God said: "O ye who believe! Why say ye that which ye do not?". Then men's deeds should be commensurate with their words. Ibn Mardweeh reported that "a woman of the Ansar approached the Prophet complaining that her husband had beaten her and he replied: "Equal to Equal", but God revealed to him "Men are the protectors and maintainers of women". So she returned back home having been assured that retaliation is not the best way to protect the moral atmosphere of the family life.

Gross ill-treatment and stubborn oppression, however, necessitate the separation of the married couple and indemnity to the wife if there are grounds for it. There is no doubt that the husband is permitted to inflict an unpainful beating whenever one of his legitimate rights is violated, but he must be reminded that this is the severest of all three chastisements and should, therefore, be kept within the limits dictated by kindness and mercy.

As pointed out in the above discussion, Islam is unique among old and modern religious and cultures to restore woman's dignity and honour, and give her an equal human status. Gustave Lebon, a French Historian, said that "from the Arabs, the Europeans took the principles of galantry making due respect to women. It was Islam, contrary to common belief, and not Christianity, that raised woman from a lowly to a lofty status. A dispassionate survey of Islamic History during the reign of the most-guided companions, along with their Arab successors, especially the Turkish empire and onwards, shows that the present plight of Eastern women can in no way be attributed to the Religion of Islam and the Quran's teachings. Islam did not only raise woman to a human status and protect her rights as a human being, but also was the first among all past religions and cultures to take a fine attitude which best suits her nature. Antagonists who accused Islam of usurping the rights and freedom of the Muslim women who represent no less than half of the society, did it either to show their loyalty to alien ideologies to which they belong or to satisfy suspect fronts with which they seek power, or because Islam prohibits misconduct by words and deeds while they want to commercialize woman in order to gratify their sexual appetite and bestiality. To achieve their objectives, their only means is to drive the Muslim woman

away from the circle of Islamic ideals and morals"

5. Polygamy

Polygamy, in the Islamic context, means precisely polygyny or the plurality of wives, because Islam forbids woman from having more than one mate. Plurality of husbands has conspicuous harms and serious implications for both the individual and society. It degrades woman, offends her dignity and reduces her to a debased creature cherishing lustful instincts and brings her closer to animalism.

Polygamy, as such, was practised by Prophets, kings and common people long before the advent of Islam but without limits or assurances. It was not an Islamic injunction, because when the Prophet started his mission, it was deeply-rooted in the pre-Islamic social life. Islam only sanctioned it to cope with the exigencies of times and circumstances. It was made permissible with a maximum of four wives and the pre-requisite of equality between them in maintenance and kindness. Islam, however, did not grant this right to man only to satisfy his sexual obsessions and carnal desires. The Prophet said: "Get married and don't divorce. Cursed by God are the "tasters" - males and females"; and: "Marry the procreative woman, because I will be proud of you over all other Nations" (related by Al Nasai, Ibn Hayan, Abu Daoud and corrected by Al Ḥakim)

The role of Islam was therefore to organize this traditional institution on a realistic basis. Its safeguards and benefits were insured within the framework of the family system because Islam could not bear to leave the evils of polygamy unchecked or unrestricted. To those who maintain the letter of the Quranic verse: "Marry women of your choice, two or three, or four", (IV: 3) Imam Al-Tabrari says: "They did not realize that this Islamic injunction virtually implies that man should marry only one wife. The permission for polygamy: "Marry women of your choice....." has been and remains conditioned by a pre-requisite of total equality between the wives: "But if ye fear that ye shall not be able to deal justly (with them), then only one" (IV: 3). So, this condition of perfect justice in material as well as in non-material things being impossible to fulfil, rather directs men towards monogamy". Al-Bahi Al-Kholi, an Islamic scholar comments in his book, "Islam and the causes of contemporary women": " This text, from which it is understood that Islam permits polygamy, tends in reality towards the restriction of plurality and recommends monogamy. For it required perfect justice and warned men against doing injustice to their dependents exactly as they were forbidden from dilapidating the rights and property of the orphans. Because injustice isoddand ignominous, justice can be achieved if men hold

to monogamy, or restrict polygamy to certain circumstances where monogamy is rather unjust to their decent life. Old Jurists and interpreters of the Holy Quran such as Al-Kortobi, Al-Tabari, Al-Zamakh-Shari, Ibn Abbas, Ibn Jubair and others said that the injunction prohibits any increase in number which may result in the unfulfilment of justice. Al-Tabari noted that the verse is a plain prohibition against marriage with those women unto whom a polygamous husband fears he will be unjust".

From the above we may conclude that Islam permitted polygamy - as a remedy for some social diseases - under certain conditions without which plurality of wives shall be prohibited since it was realized that Islam, since the very beginning, favours monogamy. The Quranic verse explicitly forbade plurality whenever it was feared that the first wife would be treated unjustly: "but if ye fear that ye shall not be able to deal justly (with them), then only one". The equality required between wives is basically a matter of inner conscience. An individual is thus forbidden from polygamy if he is unable to provide each and all his wives with the prescribed dowry, suitable dwelling, living expenses and particularly good treatment and kindness. An Islamic marital life is based on mercy and compassion. So if an individual is too busy earning his livelihood a large part of the day and night, he cannot be expected to have this special kind of love tenderness by which God has discerned the nature of the relationship between husband and wife: "and among His signs is that He created for you mates from yourselves, that ye may dwell in tranquility with them, and he has put love and mercy between your (hearts)". Deprived of these noble feelings in his contact with one wife, a man will never fulfil the prerequisite of equality to his second, third or fourth wife.

5.1 Kind of Extent of Justice

If we suppose that the pressing circumstances and the Lawful reasons are available and necessitate the husband's second or third marriage, the condition of fairness and justice to all may be applicable in certain matters, but remains impossible in others. Justice and equality may be fulfilled between the wives in provision, housing, clothing, and all material things of life; but they are rather impracticable in the distribution of love, affection, kindness and non-material things of the heart and conscience. Another verse which permitted polygamy, warned man against unharnessed emotions which lead to injustice. It also proved that a man who insists on polygamy shall eventually lean towards one wife at the cost of the other's rights: "Ye are never able to be just and fair as between women, even if it is your ardent desire: but turn no away (from a woman) altogether, so as to leave her (as it were) hanging (in the air)" (IV: 129).

God who knows better about man's feelings of the heart, made it clear

that it is beyond man's power to apply equality and fairness in matters of an emotional connection. Leaning towards one of his wives makes him an oppressor who has no right to avail of this permission for polygamy. In such a case he is under the obligation of providing his wife with all outward matters, but unable to give her love and compassion as it is her right. She neither enjoys her husband's kindness, attention, and hearty attachment, nor is freed by divorce to get rid of him so that she can gain the affection of, and marry, another man. Aisha narrated: "The Holy Prophet never showed preference for one of his wives over another. He used to call on all of us, approach us in kindness, until he reached the wife with whom he was to pass his night" (10).

Islam also prevents a wife from offending or hurting the feelings of the "other woman" of her husband. The four Imams reported that a woman came to the Prophet and said: "O Messenger of God! I have a fellow (wife of my husband) am I wrong if I claim that I have taken more from him than he really gave me? The Prophet replied: "To claim pretended satisfaction is tantamount to wearing two dresses of falsehood". Lying to the other fellow wife in order to incite her jealousy was thus prohibited.

Islam, which preaches social integrity and moral continence, and fights hypocrisy and irresponsibility, accepts that there are emergencies during which polygamy becomes an individual as well as a social necessity. Away from secret infidelity and unfaithfulness, the honest and lawful plurality protects the rights and dignity of the other woman, minimizes social evils and eliminates veneral diseases. Polygamy is only permissible under the said conditions and reservations.

However, the permission for polygamy has raised much harsh criticism and vile attacks against Islam and Prophet Mohamad. Many antagonistic thinkers, confusing the right with the wrong, do not realize that the spirit of polygamy offers a practical solution to so many social problems. Montgomery Watt slandered the Islamic text by saying that it did not set a limit for the number of wives man is entitled to marry according to the Law of polygamy: "It did not prohibit that who married six or seven wives to take yet more"; he said. "Women, in the Prophet's era, had contacts with more than one man. The Prophet himself, beside his legal marriages and innumerable slaves, had many other intimacies" (11). Such slanderous and baseless lies with respect to the Holy Quran, the Prophet and History are intended to misguide Western people and spread gross misconceptions about the Religion of Allah.

Islam is clear on this problem. It did not close an eye to it in order to let

(10) Related by Abu Daoud, Ahmad and Al Bukhari

the traditional polygamy become unrestricted for men and degrading for women, nor did it resort to total prohibition because this will be a helpless and self-deceiving solution. In the non-Muslim societies, there is a pretended monogamy, while polygamy is covertly practised between men and illegal companions. Such illicit relations are seldom punished by law or condemned by social ethics which, on the other hand, consider the legal, responsible and decent polygamy as an unpardonable crime.

Those deviant thinkers and their imitators in the lands of Islam should realize that the Islamic polygamy preserves man from sin and immorality, and ensures woman's dignity, self-respect, and right to have a home, a family and decent companionship. Let us remind them of the following:

1. In his "History of marriage", Wester Mac said the plurality of wives, or polygamy, was recognized by the Christian Church until the Seventh Century A.D. (12). The Christian prohibition of polygamy, same as monasticism, was an ecclesiastical invention which the clergymen failed to make binding. The medieval History counts that the Nunneries were like brothels, and incest was widely practised among the priests and their mothers and sisters.
2. Comparing between Western monogamy in disguise and Islamic polygamy, Dr. Billy Graham says: "Christian countries make a great show of monogamy, but actually they practise polygamy. No-one is unaware of the part the mistresses play in Western society. In this respect Islam is a fundamentally honest religion and permits a Muslim to marry a second wife if he must be strictly forbidden all clandestine amatory associations in order to safeguard the moral polity of the community" (13).
3. An International Youth Conference held in West Germany in 1984 recommended that polygamy be adopted as a necessary solution to the rise in the number of women following World War II where a large number of men were decimated. The Archbishop of England said that there was no other remedy to the post-war social ills and family disintegration than the permission of polygamy.
4. Gustave Lebon asserted that the institution of Polygamy was known among the peoples and nations of the East before the advent of Islam's Prophet. (14) We were informed by Wester Mac that some European Kings had more than one wife without any objection from the part of the

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(11) Montgomery Watt: "Mohamad in Medina", translated by Shaban Barakat, p. 433

(12) "Slanders against Islam" by Ahmad Jamal, p. 55, and "Islam and the Apostle" by Justice Ibn Hijr p. 58, Doha, 1978.

(13) Op. cit., p. 60 - quoted by "Tafseer Al Manar" Vol. 4.

Christian Church. He cited the Kings of Eire and France and King Frederic II of England.

5. Extra-marital relations resulted, in some European countries, in a high birth-rate of illegitimate children who were eventually left to the care of orphanages, without any rights incumbent on their societies. A Diocesan Conference in 1946 revealed that "at least one in every eight children born in England and Wales is conceived outside wedlock".

6. In most countries of the world, women outnumber men. Official statistics show that the female population in Russia and West Germany exceed the males by 20 million women, and in the U.S.A. by 2 million. (15) There is no other solution to this surplus except Islamic polygamy with its conditions and reservations, or the opening of Nuneries to accommodate the large number of distressed spinsters at the cost of their womanhood. On the other hand, homosexuality, concubinage, prostitution and illicit sex are tolerated all over the Western world, where sodomy is sanctioned by law and prostitutes have a legal union to defend their rights. According to recent statistics, in some Western countries around 50% of children are illegitimate and venereal diseases are exhorbitantly ravaging the present youth generation.

Dr. Annie Basant noted: "It is better for a woman, more respectable for a woman, to live in Islamic polygamy united to one man only, with the legitimate child in her arms surrounded with respect, than to be reduced, cast out on the street, unsheltered, uncared for, to become the victim of any passerby, rendered incapable of motherhood and despised by all".

5.2 Suspicions surrounding plurality with captive women

Islam is blamed by some opponents for the Quranic verses concerning the treatment of slave women captured in wars or, as termed by the Holy Quran, "what your right (hand possesses)". The problem took such grave proportions as it was known that some wealthy men from the Arabian Peninsula bought women to join their harems, granting them the rights reserved for war captives. While, on the other hand, some scholars of Al-Azhar issued legal advice which made woman's slavery in our times still lawful, despite the fact that such women are either trafficked in or abducted.

It is commonly said that the United States, under president Lincoln, was the first country to abolish slavery according to the plenary Congress resolution of 31.1.1864. An international convention was ratified in 1842

(14) Gustave Lebon: op. cit., p. 60.

(15) Egyptian Daily "Al Ahram", statistics published on 16.11.1960.

whereby both the USA and Great Britain should keep naval bases along the West African coast to prevent all traffic and trade of slaves. Such was the first international endeavour towards the total abolition of slavery.

However, the fact remains that Islam, through frank and explicit verses of the Holy Quran, was the first source of law which, fourteen centuries ago, had effected the abolition of slavery and laid down rules governing the treatment of war prisoners which constituted the main source of slavery. Says God: "Therefore, when ye meet the unbelievers (in fight), smite at their necks; at length when ye have thoroughly subdued them, bind a bond firmly (on them): thereafter (is the time for) generosity or ransom: until the war lays down its burdens" XLVII: 4). The verse had thus laid down an explicit law of war. It left to the Muslim leadership to choose between the "setting free as a favour" or the "ransoming". Imam Al-Baydawi remarked that: "The provisions of this verse ruled out the enslavement of the prisoners of war" (16). Dr. Mohamad Al-Bahi said that "the matter remained as a policy dictated by the circumstances and the way of dealing with the Muslim prisoners of war by the non-Muslims". (17). These, however, do not form an intrinsic implication of the law of war in Islam. The ransoming was effected either through the exchange of war prisoners between the belligerent parties, or an indemnity paid in species or kind according to what was seen by the Muslim commander as fulfilling the general interest of the Islamic State.

It should be remembered that, at the advent of Islam, slavery was an acknowledged international socio-economic system. It sprang up from many sources, particularly war prisoners, slave trade, abduction, piracy and inability to pay back debts. Islam had successfully put an end to these sources, save the enslavement of war prisoners which was systemized as shown in the above verse.

In the old world, slavery was deeply-rooted in the social structure. It was reported that when Salman (the Persian) proved to be unable to pay back his debts, all debtors gathered and judged that he should be enslaved in accord with the prevailing customs. The Prophet told them: "He is a freeman, all you can do is to share his goods among yourselves proportionately to your debts".

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(16) The subject is further discussed in: "Islam & Slavery, in old and modern times" by this book's author.

(17) Dr. Mohamad Al-Bahi "Islam & Slavery"

About the inherited traditions of slavery, Islam did not spare any effort towards establishing the principles of perfect freedom and equality among all mankind. Islam began by forbidding beating and ill-treatment of slaves. This was made subject to the Law of Equal retaliation. The Prophet said: "He who slays his slave, we shall put him to death". People were also ordered not to hurt his feelings by calling him a slave. Says the Prophet: "None of you should say: this is my slave and this is my slave-girl. Rather, he should say: this is my man and this is my maiden." The Prophet, in another saying, considered the masters as brothers to their slaves, and enjoined that: "he who has a brother under him, should feed him and clothe him as he himself feeds and dresses" (related by Ahmad Abu Daoud, and Al Tirmizi, and The True Hadiths of Al Jamie Al Saghir No. 1/236.

Islam also ordered that the atonement of some sins and transgressions consisted in freeing the slaves as in the redemption for killing a believer by mistake. Moreover, a part of the regular alms (Zakat) was to be spent for the ransoming of slaves and purchasing their freedom through contracting the 'Mukatabah' or "writing of enfranchisement" between the master and the slave who was unable to pay for his own liberty.

As far as the women enslaved in wars were concerned, Islam laid down the principles of their treatment along with the principles of "like treatment" of war prisoners in both camps of the warring parties. It was prescribed that they should not be dealt with as mere spoils of war, but that they would be the property of the captor who, as master, was allowed to have a number of slave-women, and to marry any one of them, if she was not already married, to preserve her human dignity and safeguard the Muslim society from immoral contamination. Says God: "Marry those among you who are single or the virtuous ones among your slaves, male or female: if they are in poverty, God will give them means out of His Grace" (XXIV: 32). He also said: "Do not marry unbelieving women (idolators) until they believe: a slave woman who believes is better than an unbelieving woman, even though she allures you" (II: 221).

Islam therefore enjoined that all adult men and women, be they free or enslaved, should be married according to the Divine Law, even through the help and at the expenses of the State, because adultery and illicit sex were absolutely prohibited. For the warrior who captured an unmarried woman, he was exceptionally allowed to provide her with respect, shelter and maintenance in his home. Under what the Quran called: "What your right (hand) possesses", slave-women were protected from falling into depravation and adultery, and from leading a shameful life which would make them a meansof corruption and animalism in the society. She was sure that she would be

secured her full freedom in accord with the provisions of the Islamic principles. Imams Ahmad and Al-Baihaqi reported that the Prophet said: "A slave-woman who conceives and gives birth (to a child) from her master shall be considered free after his death". Caliph Omar Ibn Al-Khattab said: "A slave-woman is enfranchised by her conception from her master even if she aborts".

This principle was exclusively applied during the wars of the Islamic State if there was room for it, particularly if the leadership, for the general interest, refused the principles of ransoming or freeing as a favour. It is noteworthy that this principle is abhorred by non-Muslims who, at the same time approve of adultery and illicit relations and seek to prepetuate their corrupt manners and immoral ethics everywhere. Islam, it should again be underscored, gave slaves equal human status and, in many instances, raised them to the highest positions as military commanders. It was reported that the Holy Prophet said: "Hear and obey (the orders of your leaders) even though the man appointed above you as your leader be an abyssinian slave, so long as he enforces among you the Law of God".

5.3 Distortions about the Marriages of the Prophet

It is regrettable that the Western societies attack and condemn Islam without knowing its rudimentary teachings as regards the status of woman in general, and the law of polygamy in particular. A Jewish American, Mrs. Margaret Marcus, who embraced Islam and took the name of Marriam Jameela, wrote in her book "Islam between theory and practice" recognizing that Islam was victim of slanders about its system of polygamy: "To the West, this was an irrevocable evidence to the debasement of woman in Islam". She went on to say: "Muslim reformers, at best, undermine its importance, consider it as associated with backward societies and unacceptable unless in exceptional and emergency cases. But we should understand that this interpretation advocated by Muslim revivalists had no foundation in the Holy Quran and the Prophet's Sunna. It is, rather, a corollary of the absolute intellectual subservience to the values of the Western Civilization. The horror with which the West regards polygamy may be attributed to the predominant individualism in the present society which favours adultery than polygamy".

The Western view of polygamy did not consider the benefits nor refute the disadvantages of plurality, but merely sought to discredit Islam and its Prophet. Christian fanatics used the family law of Islam as a means to defame this Religion which stands firmly against adultery and all forms of illicit relations. While Islam maintains that monogamy is the rule, and plurality a

conditional permission to solve a most difficult problem of man-woman relationships, in contrast, the Western civilization stands for superficial monogamy and widespread sexual laxity. Secret relationships and unchecked intimacies are seen in the framework of personal freedom and human progress, while fornication goes unpunished; rather, protected by the Law.

From this faulty standpoint, ignorant postulations and prejudiced conclusions were sustained to the discredit of the Prophet and Islamic Law of polygamy. Among these slanders, Montgomery Watt said that Muslim women, during the Prophet's era, had contacts with more than one man, because Islam, he alleged permitted polyandry or plurality of husbands. He went further to claim that the historical references show that the Prophet himself had many illegal instimacies beside his legal marriages, in addition to the Kingdom of Yemen.

It is however true that such baseless stories cannot be found in any Muslim historical record because all Muslims had come to know the unimpeachable and ideal character of Prophet Mohamad. To return to the Prophet's marriages, it may be interesting to note that the "Biblical texts" had reported that polygamy was practised by many Prophets of God including Abraham, Jacob and Solomon who married a thousand wives. This is tolerated by Islam's opponents, while Mohamad's marriages with old women and grieved widows as an act of clemency and humane compassion are counted as an unpardonable crime.

The Prophet's enemies did not deny that the pre-Islamic society in Arabia was indeed full of mischief, injustice, idolatry and ignorance. Prophet Mohamad, who never claimed to be an immortal, renounced the prevailing immoral life where sexual gratification was commonly easy in the corrupt society. He held strongly to purity and chastity which helped him to discipline his mind and soul. Maintaining the highest standard of morals, it was not until attaining the age of twenty-five that he married for the first time with Khadija, who was fifteen years older than him. She herself proposed the marriage and remained his only wife until she died at the age of sixty-five. She had always praised his truthfulness, honesty, faithfulness and mature personality. He had no other marriage during her lifetime. But an Orientalist, Margelioth, claims that her huge wealth was the main reason for the Prophet's marriage with the twice-widowed woman, despite the fact that she initiated the contract. Another orientalist, Moer, concludes that Mohamad's loyalty to this woman sprang from his fear of her lofty economic and social status, and dread that she might ask for divorce.

1. When Khadija passed away, the Prophet was fifty. During her life and, even for some time after her death, he had no other intimacy. His third

wife Aisha once asked him: "What could you remember of an elderly woman of the Quraish (tribe); she died very old and God has replaced her by a better one". He replied: "Never will there be better than her; she believed in me when all others were unfaithful, trusted me when all others were incredulous, consoled me with her goods when all others deprived me, and I had all my children by her".

2. After her death, all his subsequent marriages were governed by clemecy and instruction duties. The second wife was Sauda whose first husband died on the way back from Abyssinia. This old widow turned to the Prophet who gave her protection and shelter, and married her.

3. In the same year, he married Aisha Bint Abu Bakr, yet a minor of seven years. When their marriage was consumed after the migration to Medina, it was reported that the Prophet told her: "I saw you thrice in my dreams. Over three consecutive nights the Arch-Angel brought you veiled in a silk dress and said: This is your wife. I uncovered your face and it was you. So, I would say: "God is full of strength and Able to enforce His will" (reported by Muslim). Al-Hakim also narrated that "following the death of Khadija, the Prophet, amid all sorts of troubles and persecutions from part of the Quraishist unbelievers, was very sad Arch-Angel Gabriel visited him with Aisha and told him: this will relieve your bereavement because she will succeed to Khadija".

   Sauda Bint Zimaa remained in the Prophet's house where she found consolation and protection. She used to say: "It is not that I am earnest of marriage, as such, but I would like to be resurrected on the Doomsday as a wife of the Prophet".

4. Widows of the Muslims who were martyred in the early battles of Islam had to be resettled and protected by the survivors. The Prophet, setting the best example for the Muslims' practical life, married Hafsa Bint Omar Ibn Al-Khattab. When her first husband was martyred, her father proposed her to Othman, who rejected her. The Prophet then extended her his personal clemency and patronage.

5. Another wife of the Prophet was Ramla Bint Abu Sufyan. She had embraced Islam with her husband Abdulla Ibn Jahsh Asadi and both migrated to Abyssinia in the hard days of persecution by the pagan Quraishis. There, he forsook the religion of Islam, and became an apostate. Ramla refused to follow him or return back to her father, a leader of unbelievers. As a gesture of friendship to a noble King, the Prophet sent to the Negus of Abyssinia to ask her if she would accept to marry the Prophet, who sought also to assure her security and a decent life.

In the same line of instructing the Muslim society that the martyrs' widows need to be rehabilitated and provided with protection and sustenance, the Prophet married Zaynab Bint Khozayma, whose former husband had died during the Battle of Uhud. She was called "Mother of the poor" because of her devotion and tenderness to the orphans. She died only three months after her marriage contract to the Prophet.

6. The Prophet then married Hind Bint Abu Omaya, called Umm Salama. She had migrated to find safe refuge in Abyssinia with her former husband Abdulla Al-Makhzoumi, then returned to Mecca where she was imprisoned and persecuted by her people until she left secretly with her husband to Medina. During the Battle of Uhud, Abdulla was commanding a military faction, including renowned warriors such as Abu Obaida Al-Jarrah and Saad Ibn Aby Wakkas. He was seriously wounded and died on the same day. Then the companions Abu Bakr and Omar were proposed to her, but she rejected them both and prayed to God to recompense her with a better husband than Aby Salama. When the Prophet proposed to her, she said: "I am an old woman, I have a son and I am jealous of women", he replied: "That you are old, I am older than you; that you are jealous, God is able to heal your heart; that you have a son, he will be the trust of God and His Apostel". The marriage was thus contracted to protect the old woman and her son, and to honour her steadfastness and striving in the cause of Islam.

7. Marriage to Zaynab Bint Jahsh came to set new legislative principles. She was a divorcee of Zaid, an ex-slave who had been adopted by the Prophet and called his son. By God's order, Mohamad married Zaynab (the divorcee of his adopted son) so that old Arabian traditions concerning the prohibition of a divorcee's remarriage, and the real relationship between adopted children and adopting fathers, were cleared up. God said: "Then when Zaid had dissolved (his marriage) with her, with the necessary (formality). We joined her in marriage to thee: in order that in future there may be no difficulty to the believers in the matter of marriage with the wives of their adopted sons, when the latter have dissolved with the necessary (formality) (their marriage) with them. And God's command must be fulfilled" (XXXIII: 37).

8. By his marriage to Juwairya Bint Al-Harith, the Prophet gained for Islam the support of the whole tribe of Bani Al-Mustaliq. When her people were defeated, she was made captive by Thabit ibn Qais. She approached the Prophet and identified herself: "O Messenger of God! I, daughter of Al-Harith Ibn Abi Darar, leader of his clan, was inflicted with so much misery which you are not unaware of. I was captured by

Thabit to whom I made a Mukataba (writing of freedom), and now I come to you seeking help to ransom my freedom". The Prophet freed her and proposed to her. His companions immediately set free all other captives from the clan of Bani Al-Mustaliq saying: "These are the brothers-in-law of the Prophet, how can we enslave them?"

9. By his marriage to Safiya Bint Hoyay, the Prophet also put an end to the hostilities staged by a large clan of Arabian Jews. Her former husband, Kinana Ibn Al-Rabie, King of the Jews, having taken his quarters in the impregnable fort of Khaibar, died with his men and she was made captive of war with other Jewish women during the battle of Khaibar. She approached the Prophet complaining of her sad plight and asked him to enfranchise her from enslavement. The Prophet, concerned about the cause of peace and the future of Islam, married her as a gesture of kindness and clemency to her people.

Such were the marriages of the Prophet and their general background. Nobody can allege that any of them was urged by physical appeal for these mostly elderly widows or divorcees, nor by sexual pressures of a man of the highest moral and spiritual standards who used to live in complete modesty and austerity.

5.4 Western slanders against a noble mission

Bearing on himself the heaviest part of the responsibility, the Prophet set the best example in the socio-political life of the nascent Islamic State. Widows whose husbands were martyred in the cause of Islam, divorcees who has no bread-winner, and other women outnumbering men due to the Muslim wars, all had to find security and protection in decent homes. He came to instruct his companions that these were a joint trust of the Muslims who should be prepared to extend them shelter and provision through the legal marital union. Otherwise, social disequilibrium and moral degeneration would dominate.

However, it should be noted that keeping many wives at the same time was a speciality accorded to the Prophet. He had to shoulder the hardest challenge as part of his mission to establish Islam as a practical system of life. He once said: "(in some matters) I am not like any of you, because for the night I put upwith my Lord who gives me food and drink".

The Prophet's plurality was sometimes tied with setting new legal principles and abolishing old customs. Especially those Quranic teachings concerning women, had to be accurately taught and clarified to Muslim

women at large in accord with their true interpretation as they were revealed to the Prophet. This was a task of the Prophet's consorts.

As a Supreme Teacher, the Prophet, in most of his marriages, taught mankind how to live the Islamic marital life, how to extend love, kindness and compassion to different kinds of wives, and how to deal with the virgin, the widow, the divorcee, the humble, the poor and the non-Muslim wife. It was reported that when entering his home, the Prophet would take the children into his arms and embrace them before conversing with their mother. The virgin and young wife were caressed in a loving and endearing manner.

Men were taught that when emergency prompts taking a second or third wife, it is an act of humanity and justice to continue extending kindness and maintenance to the former one. She should not be divorced unless she initiates divorce by herself, and should be treated as a sister in Islam to the new one. We must always keep in mind that the Prophet is the most perfect model of man at all times, and that his consorts were entrusted with special duties which they did not share with any other Muslim women. Says God: "The Prophet is closer to the believers than their own selves, and his wives are their Mothers" and also says: "Nor is it right for you that ye should annoy God's Apostle, or that ye should marry his widows, after him at any time. Truly such a thing is an enormity in God's sight" (XXXIII: 53).

The Western philosophy of divorce prescribes that the divorcee and her children leave the marital home forthwith and be thrown out into the street or be left without means to sustain the dismembered family. A Western man who cannot obtain divorce finds no restrictions or obstacles to his scope of extra-marital relations. Fornication and sexual laxity, as they are endorsed and encouraged by the Western societies, provide man with an ignominious solution to the Christian rigidity in matters of divorce. The "Separation" which it entails may be used as a basis for final divorce. The result is clear in the rising number of neglected wives, illegitimate children and forsaken mistresses without dignity or rights whatsoever.

This philosophy of sex-culture makes no allowance for human nature and instincts, nor does it take into account other emergencies and exigencies of life. For such circumstances as the sterility of the wife or an incurable disease which prevents sexual intercourse with her, polygamy offers a sensible and just solution, while the first wife can stay or secure her divorce.

Mankind is urged to ponder over the Islamic system and teachings because they were sent down by God, the Supreme Legislator and Lord Creator of man and the universe, who knows best what is good for man,

family and the whole community. Just as there can be no alteration to God's Creation, no man is entitled to manipulate or falsify His Law.

6. Dissolution of Marriage:

The institution of marriage in Islam is a sacred bond and a civil contract concluded between man and woman by their free choice after they are confident they can together make their marital life a permanent success under the directives of God's Law.

When this marriage is faced with serious obstacles which revert into irreconcilable situations, then divorce is the last resort. The Holy Prophet said: "In the sight of God, divorce is the most hateful of all lawful things". In his book, "Origin of Legislation" Sir Bentham criticised the Christian dogma which states that "human agency cannot separate what has been joined by God". He says: "To prohibit divorce, the eucumenic legislator intercedes between the contracting parties to tell them that they are doomed to an eternal prison which will be hermetically closed behind them and from where they will never return even though they carry the arms of animosity and hatred against each other".

Islam considers divorce a natural sequel whenever the concerned parties of the marriage contract can no longer pull together: ".....either hold together on equitable terms, or separate in kindness" (II: 229). Such release or act of divorce which Islam ascribed to the husband, in the same way Islam granted the wife the right to secure separation from the man whom she disliked through "Khula". Ibn Rushd explains that: "The wife was given the right of "Khula" to ransom for her freedom just as the husband was given the right to divorce a woman with whom he can no longer live with."

Islam, on the other hand, differentiates between man and woman as to the means of fulfilling this mandate to put an end to the marital bond from the legal aspect, as follows:

1. For his part, man was given a direct right and powers to divorce his wife.
2. The woman was granted an indirect right to secure a separation by mutual consent of her husband who divorced her "on her demand" in two cases:
   a. Khula, when she herself chooses to divorce and, in turn, forgo all her rights to alimony and deferred dower.
   b. to obtain divorce at her request in fulfilment of a pre-condition appended to the contract clauses. She may, for instance, put the condition that she would divorce if the husband marries a second wife, or moves to another country, etc.

3. Divorce is also obtainable through the intervention of the court in cases where the wife suffers injustice and undue oppression, or the husband is unwilling to pay her living expenses, or is missing for a long time, seriously ill or impotent, whenever she furnishes the pertinent proofs thereof.

The direct powers to divorce are strictly reserved for the husband on the grounds that he, as head of the family, bears the financial burdens and provides full maintenance and protection of his wife. Another reason why this right is not given to the wife is her emotional character and susceptible disposition. She would then easily violate her husband's rights and hasten to pronounce the divorce. Some Jurists, however, agree that a wife, to protect her rights, may be authorized in the contract, with the husband's consent, to keep "in her hands" the powers of direct divorce.

Man is placed under checks to use this right only in cases where there is no other course. He is not left completely free to exercise his powers even though he dislikes his wife. "Islam cannot be blamed for the miserable picture borne in woman's mind about divorce. It was, rather, made up of distorted information and a superficial perception of the message of Islam in addition to faulty exercise and misuse of Islamic mandates by ignorant people" (18).

So, man cannot get rid of his wife unless there are sufficient grounds for divorce. This is not permissible during her menstrual courses when a wife may be ill-tempered and moody, or when the husband is in extreme anger which blocks his good judgement and sound will. Similarly, woman is not entitled to demand separation or "Khula" without strong reasons and necessary proofs thereof, just as man also cannot use this right of divorce without lawful reasons, or in negligence of the preventive checks and restrictions. Says God: "Women shall have rights similar to the rights against them, according to what is equitable" (II: 228). The only exception to this rule is made in the realm of physical constitution, where man and woman are not the same. He is invested with the duties of provider and family headship, and her with motherhood and family care.

Dr. Alexis Carrel states in "Man: the unknown" that the very genetic factor is cause of the variation between the sexes where woman's behaviour is governed by the reaction of chemicals secreted into her body by the ovary glands. Ignorance of such unseen, but substantial facts, led the champions and supporters of the woman's cause to believe that both sexes should have the same education, or should be vested with identical powers and

(18) Shaykh Abdul-Rahman Abdul Khaliq: "Marriage in Islam", p. 97, 19--.

responsibilities "Women, he concludes, must therefore develop their abilities according to their nature, without attempting to imitate man. Their role in the progress of mankind's civilization is far greater than man's role if they hold to their predetermined functions".

So, because Islam makes due allowance for human nature, it bases the differentiation between the sexes in the provisions of Islamic Law upon the variations of physical potentialities and natural functions. Equal rights and duties devolving on man and woman are equivalent whenever there are grounds for that equality, as in the Penal Code, financial transactions and application of faith (Ibadat) in general. On the other hand, women are exempt from performing daily prayers during their menstrual courses, taking into consideration their physical structure and motherhood functions. They are also exempt from the duties of Jihad and war making which are not consistent with their true malleable nature and their prescribed sphere of activity. In this and other matters of differentiation, Islam is not biased to any side, because it invests each party with evenly-balanced rights and duties suiting the natural role of each in this life. Any claim of inequality is therefore wrong, because equality in the things which are not the same is mere ignorance and iniquity. Says God: "And in no wise covet those things in which God has bestowed His gifts more freely on some of you than on others" (IV: 32).

7. Divorce between Islamic and Western Laws

In the Christian West, divorce was completely prohibited according to the dictates of the gospel: "He who divorces his wife, unless for adultery, to marry another woman, is himself adulterer, and he who marries a divorcee is adulterer" (Mathew: 19). But the marital life, as everything on this Earth, may reach a fatal end if it does not function properly. All Western countries have realized that divorce may be the best solution whenever discord makes it impossible for the married couple to pull together or reach an agreement between themselves. The spouses then must go to court, which incorporates the sole authority entitled to dissolve the marriage bonds for many specific reasons.

The eternal church-contracted marriage remains undissoluble until one of the spouses is accused of adultery and the other furnishes the court of justice with proofs thereof. Endless problems and abominable iniquities associated with the total prohibition of divorce led to some realistic amendments to the eucumenic statutes aimed at expanding the scope of reasons motivating the dissolution of conjugal ties. A Law issued in Italy in

1970 permitted divorce on the following grounds:

— Violation of the marriage bed or adultery
— If either of the spouses is sentenced to a fifteen years (or more) prison term
— If either of them attempts to kill the other, or commits premeditated genocide
— Pre-meditated infanticide in an attempt to kill their children
— Perennial madness
— Bodily separation during an uninterrupted period of five years (or more), provided that a divorce claim is made by mutual consent
— Bodily separation during more than eight years if they do not both agree on divorce.

But despite the exhorbitant complexity and costs of the legal procedures required to obtain divorce, more than a million people filed divorce cases soon after this law was enacted. They mostly were bodily separated for a long time but without any hope of persuading the Catholic Church that they were practically divorced.

7.1 The Western remedy:

In marital life, jars and disputes may culminate in total discord and a painful situation which makes the continuance of conjugal bonds impossible. So, what could be the remedy if any of the above bases of divorce are inapplicable or cannot be substantiated before the court by the wronged partner? To live passively patient, seek extra-marital relations to gratify sexual instincts, or surreptiously circumvent the law by the use of immoral and ingenious means to fabricate a vile but acceptable basis for divorce which the claimant is able to produce the proofs thereof. This is how the Christian West faces the difficult circumstances when a husband and wife find it impossible to continue living together in peace, love and accord with each other. Examples may reveal more violations of the moral values if the marriage bond is perpetual and divorce impermissible.

7.1.1 By mutual consent, Mr. & Mrs. Edward Francis filed a divorce case before a British Court on the grounds that "they are averse to any fellowship with each other, having ceased to talk together as from ten years ago though they live in the same marital home. This gloomy life is no more bearable" They said: The court refused to secure divorce because there were no reasons for it acceptable by the Law.

A columnist commented that "they were virtually doomed to perpetual misery because they held to human dignity and were unable to play the dirty scenario of adultery as commonly staged by those who

want to get divorced. Mr. Francis should have pretended making love with a young mistress in a certain hotel at a certain hour where a hired private detective would take pictures and record the scandal. These proofs, furnished to the Court, could have assured their divorce".

7.1.2 A Christian Egyptian applied to the "Coptic Personal Status Court" in the town of Qena, to obtain divorce from his wife who "had offended him, hurt his feelings, took their children and left the marital home seven years ago". Although the resumption of their marital life was useless because of their reciprocal hatefulness, the Court dismissed the case saying that "there cannot be self-judgement where there exists an explicit provision of the canonical law. The Gospel ensures divorce conditional on adultery, and its teachings were laid down to fit in all times and climes, and cannot be subject to erosion or obsolescence" (Egyptian daily "Al-Akhabar", 30.5.1956).

7.1.3 Before the same court, a Christian wife complained that her husband left her without any living expenses, A previous court judgement failed to bring her the sustenance allowance agreed upon because he left no apparent property and she declared that, fearing to fall into adultery, she asked to get her freedom. The Court asserted that the Gospel of Matthew prescribed that: "Human agency cannot separate what has been joined together by God". Therefore, divorce cannot be permissible in this case" (Egyptian daily "Al Ahram", 1.3.1956).

7.1.4 King Edward VIII of England was compelled to step down and renounce the throne because the Anglican Church rejected his marriage with a divorcee, Mrs. Simpson, whom he wanted to take in legal wedlock, because it was stated in the Gospel: "He who marries a divorcee, is adulterer".

Princess Margaret of England also faced the same situation when she declared her wish to marry Captain Townsend who divorced his wife in order to keep the company of his beloved princess.

7.2 The Islamic remedy:

To those who call to take away the right of divorce from the hands of the spouses and place it in the hand of a judge, the above examples are enough to show that the Court will never act as a venue where peace and harmony between a married couple may be restored. This obviously depends on the spouses' desire to mend their differences and patch up their relations. Marital life cannot proceed in a dignified and decent way where either partner despises or feels no more love and compassion to the other.

The marriage contract in Islam is meant to be a permanent and

harmonious relationship, but if the marital life turns unhappy, husband and wife are granted the right to dissolve their marriage, either directly or indirectly. The exercise of this right is however, placed under checks and reservations to ensure that divorce will be used only as a last resort. Among these restrictions and conditions for divorce are:

7.2.1 Man, as provider and head of the family, is granted the direct right to dissolve the marriage bond. He is ordered to positively respond to the wife's claim for divorce (Khula) if she cannot continue living with him because of ill-treatment, physical defects or impotency, If he arbitarily refuses, the divorce is decreed by the Court.

7.2.2 Man is not left unchecked to exercise this right however or whenever he wants. Rather, Islam, concerned with the administration of divine justice, has laid down enough controls and checks to prevent abuse or haste in the use of this right.

a. Conditions preceding the divorce are:

i) divorce is not permissible during a wife's menstrual period;
ii) it should be pronounced during a period of purity, without having sexual intercourse with the wife.

Thus Islam maintains the marital life during this period where provocative changes in body chemistry affect the spouses' relationship and psychology. Sex suspension can be an estrangment factor helpful in hastening divorce.

iii) it should not be tied or conditional on certain events expected to occur in the future. Both Egyptian and Kuwaiti "Family Law" have adopted the principle of rejecting the divorce by which the man has sought to compel himself or others to take or leave a certain course of action.

iv) it should not be pronounced during a state of extreme rage and uncontrolled anger which form a temporary barrier blocking man's rational judgement.

v) Man should be in control of his senses and mental disposition. Divorce, for instance, could not be accepted from a drunken man.

b) Restraints associated with divorce:

i) Divorce should be witnessed by two adults
ii) The wronged partner should be indemnified
iii) The divorcee - during the waiting period - lives in the marital home in complete maintenance by her former husband.

The waiting period is therefore an ample opportunity for both to

reconsider their attitudes, in the hope that living together in the same home may prevent a final divorce and unite their hearts again. If they desire reconcilation, he can take her back without need for a new contract.

Obligations of both man and woman towards this condition to make it a dutiful commitment is still a matter of controversy between the different schools of law. But the final judgement rests with the Supreme Guardian or the Court of Justice normally entitled to have the final legal say in all controversial issues.

7.2.3 Islam granted woman the right of 'Khula' or the divorce claimed by the wife. This may be regarded as another check on the husband's direct right of divorce. She has the right to demand the dissolution of the marriage bond, but she is not given the means to directly pronounce divorce as is the husband. Islam does not deny her this right whenever she is subjected to ill-treatment, harm and, in the case of a husband's physical handicap, impotency, long absence and apostacy.

'Khula' should also be used only as a last resort, after all efforts have been exerted towards a peaceful solution to the family dispute, always bearing in mind the sacred objectives of the marital union in Islam. If the husband refuses to divorce her or insists or retaining her just for annoyance and torment the court will help her to obtain the dissolution of her marriage, if the demand of Khula is judged justifable.

It is not an Islamic bias to the male sex to place the exclusive right of divorce in the hands of the husband. He is granted this right because he is unequivocally recognized as the prop of his family and maintainer of his wife. The medical facts also prove that his bodily constitution and mental disposition enable him to rationally endure the nuissances and mishaps of life, while the woman is more susceptible to vehement emotions, and quick impressionability. If she is given this right directly, she might easily violate the husband's rights, attach no importance to his status as head of the family, and disregard the spiritual and moral bonds cherished by Islam to make the marriage a durable companionship and the family a haven of peace and compassion.

7.2.4 Islam does not require the wife who claims Khula to produce "Eye-witness evidence" to prove the harm and mistreatment inflicted on her. Many kinds of harms cannot be witnessed by strangers, especially when Islamic values prescribe that all petty jars, family

secrets or partner's defects should not be exposed in public. Imam Al-Ghazali said: "Islam prohibits the spouses from revealing their intimate secrets". Imam Muslim reported, on the authority of Abu Said Al-Khudri, that the Prophet said: "One of the greatest sin in the sight of God on the Day of Resurrection is when the man confides in his wife and the wife confides in her husband, then he divulges her secrets (to third parties)". The only condition in the Khula system is that the woman should ransom her freedom and give back to her husband the dower or all costs he incurred to set up the marital home.

7.3 The court's competency for divorce:

From the above review, it is evident that the curtailment of divorce permissibility in order to make it conditional on a defined range of reasons is an unrealistic solution to a difficult problem and a most dangerous factor leading to the proliferation of immorality and abnormal relationships. It is also true that the wife bears the largest part of injustice, since she is not always in a position to secure the proofs justifying her claim of divorce. She is therefore doomed to life imprisonment in the marital home deserted in the marriage-bed and unable to obtain her freedom. The husband in turn, can suspend the marital life without divorcing his wife. He can avail of his right to contract a second, third and fourth legal marriage or merely gratify his sensual desires in extra-marital relations with mistresses and concubines. The Islamic Law of divorce keeps the door open for a dignified and respectful separation based on the spouses' mutual desire to dissolve their marriage after all conciliatory measures have proved ineffective. It is therefore not lawful to deprive them from their right to divorce or to secure Khula to hand over this right wholly to the court, as it is today called for by Westernized people. It may be highly desirable that the State organize the registration of divorce in official documents exclusively entrusting this task to the Law administrator instead of leaving it to the Law of customs or to be finalized by a civil servant named the marriage officer. In this case, the Judge will try his best to settle their dispute and bring about their reconciliation. If he fails and the husband insists, then divorce might be applied. This plan can pave the way for settling the dispute and continuance of the marital relationship. God said: "If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, God will cause their reconciliation" (IV: 35).

7.4 Basic Errors:

Peace and concord of the family is an important factor in the stability and harmony of the society and the Umma at large. The solution of family

problems should be viewed in terms of moral and spiritual education as well as through comprehensive study aimed at finding the reasons and prescribing the remedy.

This, in our opinion, cannot be invested with a simple marriage officer of whatever administrative grade in the scale of civil service. A judge, or law administrator, is more competent and capable of admonishing, persuading and exhorting the parties to reconsider their stands and resolve their differences. In some countries, the judge is no more than a State officer who registers the basic data concerning a divorce case in the official records. Same as the marriage-officer, he has no reformative or conciliatory role.

Away from red tape and formalities, the Court should take up a reformist and remedial function. Assisted by social institutions, it has to investigate the causes of family differences and disintegration, conduct in-depth studies on divorce motives, rates and abnormalities. Findings and recommendations should be directed to the highest concerned bodies and State Ministries whose concerted efforts must be geared toward the protection of the family institution and improvement of family relations. The family law judiciary should also involve suitably-formed subcommittees of social workers and law administrators to be commissioned to examine the divorce case and try to mend the dispute between the married couple. Assisted by the husband's and wife's relatives, they can together, assume the role of arbitrator to soundly make peace and settle the differences between the spouses.

Should the judge constantly regard himself as a State-paid officer, the Court will remain estranged from the social scene where it is supposed to keep up with the complexities of modern life, see that all rights are preserved, new social diseases surveyed, dissected and remedial measures prescribed. The competent courts, social institutions and family welfare agencies should coordinate their efforts to develop comprehensive policies aimed at strengthening the family institution, minimizing social harm and arbitrary divorce, and stressing the meaning of the marital bond in Islam as a symbol of respect for the limits set by God and of high moral and ethical values. It is, however, deplorable to note that the State organs for social planning never consider the participation of Islamic Jurists and Mujahid scholars in their activities which they single-handedly plan and implement according to the imported patterns.

To conclude this discussion a final remark will be made about the difference between placing the right of divorce in the hands of the Judge and taking the divorce case before the Judge. The first takes this right away from the husband unless for reasons left to the discretion of the Judge, who virtually possesses the right to dissolve the marriage even though either of the

spouses stands opposed to the divorce, and against the legal pronouncement of divorce by the husband as prescribed by the Islamic Law. The second entrusts the Judge with the solemn duty of trying to achieve reconcilation, and bringing about peace and accord between the parties before registering their divorce case in the official documents. Here the Judge is free to counsel the husband and wife to persuade them to pull together and prevent the husband from pronouncing the final divorce.

7.5 Summary of causes and impact of differentiation

Before any other religion, culture or legislation, Islam has granted man and woman equal rights and responsibilities as human beings invested with a vital role in life. Attitudes of the Holy Prophet and early Muslims bear witness to the fact that woman has been given due respect and an independent personality and was never looked upon as inferior to man. Time and again, the Holy Prophet had in practice expatiated the truth that woman, in her capacity as wife and mother, deserves to be respected and obeyed. Many examples from his traditions inculcated respect for women who were treated henceforth as man's exact counterpart and lifelong mate.

In Islam equality of man and woman has been explicitly granted by the Holy texts and was not considered a problem in any way. Such equality was not meant to outbid the woman's rights and seek to imitate Eastern or Western concept of freedom and equality which debased and, rather, dewomanized woman. It should always be borne in mind that man and woman are equal but not the same. From this standpoint they are equal where there are grounds for equality, as in their origin, abode, reward and punishment, legal and economic independence. In the realm of physical potentialities and social dispositions, however, Islam believes in the division of labour. So, they were granted different functions which devolved on each according to their bodily constitution and psychophysiological framework.

7 Quite in line with human nature, and bearing in mind that man and woman were created equal but not identical, Islam invested man with the duties of family headship covering, but not limited to, the outdoor strenuous work, maintenance of his wife and children with their incontestable right to be provided with all life's necessities according to his means. Says God: "Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means" (IV: 32) and said: "Women have rights like those (of men) against them, though men are a degree above them". (II: 228). Islam raised the status of wifehood, and woman, as a partner in the marriage bond, was invested with the duties of childbearing, procreating and upbringing. This is the heaviest task in building the Umma. Here one can easily discern that there is

no room for sharing of equality, because motherhood could not be allocated to someone other than woman.

Such are the bases upon which rest the obligations of both man and woman in Islam. In many Muslim countries, progressivist writers and systems instigate woman to use contraceptives in the framework of the family-planning programs aimed either to reduce birth rates and combat social backwardness or to comply with the posted objectives of the movement of women's liberation. Such claims are abhored by Islam which considers motherhood as the main and foremost sphere of woman's activity to preserve the human race from extinction, and bring up the next generation in an atmosphere of kindness, spiritual welfare and bliss. Woman therefore should not deliberately avoid conception, nor should she consider children as an unwanted commodity. In her book "Woman's problems", Mrs. Green-Roberick said that the more the woman believes she has attained the highest grade in civilization and development, the more she rejects subservience to man or obedience to his orders unless she is herself persuaded after lengthy and fruitful discussion. "This cannot be seen as mental maturity but rather a main cause of family disintegration". To return to her true malleable nature, a woman should someday respond to her motherhood instincts. The women in Europe and the West, in the name of equality and freedom, tried to avert the legal matrimonial responsibilities and deny themselves the marital bond and home, but were unable to ignore this primary function of motherhood. The latest medical invention is known as "Test-tube babies" where embroys are implanted in the woman's womb without the intervention of man through direct sexual contact. This and other innovations in the field of genetic engineering present a genuine threat to all spiritual values, social relationships and the family concept. The resulting fatherless children may carry the seeds of inner hate for everything in the society to add to the simmering waves of violence, feminism and exhibitionism.

Let us now take up another controversial issue which emanates from and should be natural corollary of the husband's headship, namely the wife's obedience to her husband. Has Islam arbitrarily imposed this? Is it perpetual and absolute? Does such obedience constitute an injustice towards woman? Is it an exercise of understanding and kindness, or of coersion and compulsion?

Needless to say again that, until two centuries ago, the woman in Christendom as well as in all other civilizations was looked upon as a housemaid, slave or mere chattel to be owned, inherited and trafficked in at the discretion of her guardian. The form of obedience legally known in Christianity in the present times was first formulated in the French Civil Code prescribing that the wife should obey her husband, dwell with him wherever he dwells, and follow him to any place he deems suitable for her residence.

Islam considers the marital and family life to be a sacred institution aimed at the common good of all concerned parties and the society at large. In the comprehensive and integral family system in Islam, obedience is a matter of loyalty and faithfulness. It is not indicative of woman's subservience or inferior position. It is an obligation towards the family system, and the Law of God which invested man and woman with major responsibilities to take care of the family and make their marriage a permanent success. It is not a matter of injuring the wife's self-respect, because the aspired success requires reciprocal understanding and cooperation. Obedience to the husband, just as for the ruler, or the guardian, is not absolute, nor obligatory, except in what is right and ordained by God. To be obeyed, the husband, ruler, or father should himself be abiding by the Law of God. Imam Al-Bukari reported that the Prophet said: "No obedience, in what is transgression, obedience should be in what is right". It was made discretionary, but governed by the limits set by the Islamic texts in the Holy Quran and the Prophet's Traditions. Directly speaking, it is wholly obedience to God: "He who obeys the Apostle, obeys God". An important consequence is that obedience should be seen as a joint duty where man has, in some instances, to obey his wife. Abu Daoud relates from the Prophet that he said: "God extends His Mercy to a man who leaves his bed in the night to pray to Him and awakes his wife (to do so), but if she refuses, he sprinkles water over her face. And God extends His Mercy to a woman who leaves her bed to pray to Him and awakes her husband (to do so), but if he refuses, she sprinkles water over his face".

It is finally hoped that this book helps both men and women to dispel all doubts about the lofty status which Islam has granted to the Muslim woman. It should always be borne in mind that, in Islam, the rights and duties entrusted to both sexes are consonant with their physical, psychological and mental potentialities because they have devolved on them from the Lord-Creator who knows better what fits His servants. Individuals as well as societies will therefore have no gain from showing rebellion or revolt against the true malleable nature as it was created by the hands of God. And, because no human agency can alter God's creation, then His word, as expressed in the Islamic System of life, should never be altered.

With Allah, I seek forgiveness and support